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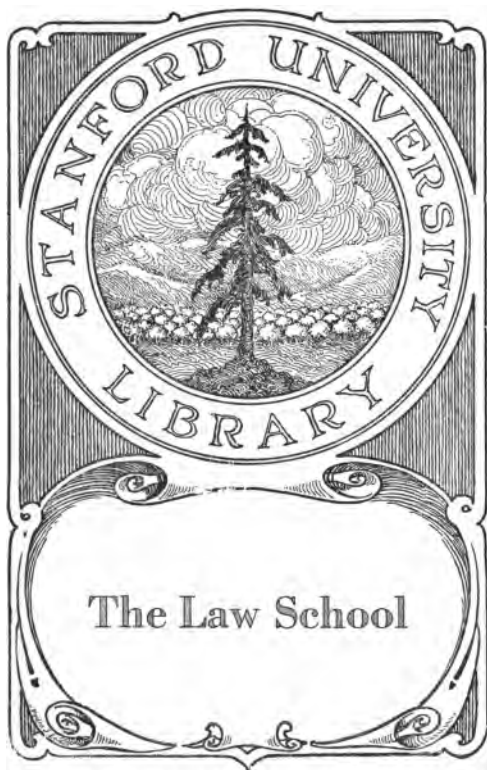
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*Ohio Collection*

# ACTS

OF

A GENERAL NATURE,

PASSED

AT THE FIRST SESSION

OF THE

Twentieth General Assembly

OF THE

STATE OF OHIO,

BEGUN AND HELD IN THE TOWN OF COLUMBUS,

DECEMBER 3, 1821;

AND IN THE TWENTIETH YEAR OF SAID STATE.

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VOL. XX.

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PUBLISHED BY AUTHORITY.

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COLUMBUS:

Printed at the Office of the Columbus Gazette,  
By P. H. OLMSTED.

1822

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PARALLEL CROCHETS



## CHAPTER I.

*AN ACT, making an appropriation for the payment of a certain sum of money to John C. Bayless, and to Simonton and Lowry, and for other purposes.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the sum of two thousand one hundred and thirty dollars, be and the same is hereby appropriated for the payment to John C. Bayless, of the amount of his contract with the state, for paper furnished by him, in the year eighteen hundred and twenty-one: which sum shall be paid out of the treasury, upon the order of the auditor of state.

SEC. 2. *Be it further enacted,* That the further sum of two hundred and twenty dollars, be and is hereby appropriated for the payment of Lowry and Simonton; the same being the amount of their contract for paper by them furnished as aforesaid; which sum shall be paid out of the treasury, upon the order of the auditor of state.

SEC. 3. *And be it further enacted,* That the sum of ten thousand dollars, be and the same is hereby appropriated, for the payment of the members of the General Assembly, their clerks and door keepers, in part of their wages for the present session; on the certificate of the speaker of their respective houses: and the auditor of public accounts, is hereby directed to issue bills payable at the treasury of state, to the amount of said certificates.

JOHN BIGGER,

*Speaker of the house of representatives,*

ALLEN TRIMBLE,

*Speaker of the Senate.*

December 15, 1821.

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## CHAPTER II,

*AN ACT, to prevent frivolous and vexatious suits, in certain cases.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That in all actions upon the case for slanderous words, actions for malicious prosecutions, and actions for assault, or

assault and battery, commenced or prosecuted by any person or persons, in the supreme court or in any court of common pleas of this state, after the taking effect of this act; if the jury upon the trial of the issue or issues in any of the aforesaid actions, or if the jury that shall enquire of the damages in any of the beforementioned actions, do find or assess the damages under five dollars, then the plaintiff or plaintiffs in either case, shall not recover any costs, any law, custom or usage to the contrary notwithstanding: *Provided*, That nothing in this act shall be so construed as to affect any suit or suits, that may have been commenced previous to the taking effect of this act.

SEC. 2. *Be it further enacted*, That in all suits instituted in the courts of common pleas, for any cause of action mentioned in the first section of this act, and the plaintiff or plaintiffs shall not recover the sum of five dollars as therein named, if the plaintiff or plaintiffs shall appeal the said suit to the supreme court, and shall not recover a sum in damages, greater than that recovered in the court of common pleas, said plaintiff or plaintiffs shall pay all the costs that may accrue in the supreme court on the trial of said suit, and in case the defendant or defendants in any such suit shall appeal the same, and the plaintiff or plaintiffs shall recover any sum in damages against the defendant or defendants, the said defendant or defendants shall pay the costs that may accrue on the trial of such suit, in the said supreme court, any law or usage to the contrary notwithstanding.

SEC. 3. *Be it further enacted*, That this act shall take effect and be in force from and after the first day of May next.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

December 19, 1821.

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### CHAPTER III.

*AN ACT, fixing the compensation of members of the General Assembly, their clerks and doorkeepers.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio*, That each member of the senate and house of representatives, shall be entitled to receive for each days attendance on the business of legislation, the sum of two dollars,

and also two dollars for every twenty-five miles of the estimated distance, by the most usual route from his place of residence in going to and returning from the seat of the General Assembly.

SEC. 2. *Be it further enacted*, That the clerk of the senate and the clerk of the house of representatives, shall each be entitled to receive the sum of five dollars; and the doorkeepers of each house, the sum of two dollars for each day whilst holding their respective appointments, during the session of the General Assembly.

SEC. 3. *And be it further enacted*, That the second and third sections of the act establishing the salaries of certain officers therein named, passed January the eighteenth, eighteen hundred and sixteen, be and the same is hereby repealed.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

December 19, 1821.

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#### CHAPTER IV.

*AN ACT, to repeal a part of the act entitled an act regulating the navigation of the Great Miami river and its main branches.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio*, That so much of the above recited act, and all other acts on the subject of the navigation of the Great Miami river, as relate to the navigation of the southwest branch of said river, commonly known by the name of Stillwater, be and the same is hereby repealed.

This act to take effect and be in force from and after the passage thereof.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

December 22, 1821.

## CHAPTER V.

*AN ACT, to amend the act, entitled An act relative to permanent leases, passed January, 23th, 1821.*

*SEC. 1. Be it enacted by the General Assembly of the state of Ohio, That the act, entitled An act relative to permanent leases, passed January twenty-ninth, eighteen hundred and twenty-one, shall not in any case be so construed as to authorize a valuation of school section number sixteen, in cases where the judgment has been or may hereafter be obtained for rent or interest due on such section, but such judgment or execution may be proceeded on, according to the stipulations in said lease, or the law under which it was granted.*

JOHN BIGGER.

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate*

December 26, 1821.

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## CHAPTER VI.

*AN ACT, fixing the salary of the Governor, Secretary of state, Treasurer, Auditor, Chief Clerk in the Auditors office, Supreme Judges and President Judges of the courts of common pleas.*

*SEC. 1. Be it enacted by the General Assembly of the state of Ohio, That the several officers hereinaftermentioned, shall be entitled to receive for their respective services the following sums annually, to commence from their several appointments, and actually qualifying themselves according to law: To the Governor, one thousand dollars; to the Secretary of state, eight hundred dollars; to the Treasurer of state, seven hundred dollars; to the Auditor of state, one thousand dollars; to the Chief Clerk in the Auditors office, six hundred dollars; to the Supreme Judges, each twelve hundred dollars, and to the President Judges of the courts of common pleas, each one thousand dollars, to be paid quarterly to wit: the thirty-first of March, thirtieth of June, thirtieth of September and thirty-first of December.*

*SEC. 2. Be it further enacted, That all fees or compensation allowed by law to the auditor of state, for any certified copy or copies of surveys, or other documents in his office, shall be paid into the state treasury for the use of the state; any law to the contrary notwithstanding.*



SEC. 3. *And be it further enacted,* That all acts and parts of acts allowing salaries to any of the officers mentioned in the first section of this act, be and the same are hereby repealed.

This act shall take effect and be in force, so far as relates to the salary of the Governor, from and after the first Monday of December, eighteen hundred and twenty-two, and so far as it relates to all other officers named therein, it shall take effect and be in force from and after the passage.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

December 28, 1821.

## CHAPTER VII.

*AN ACT, to amend the act, entitled an act establishing seats of justice.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That in all cases where commissioners shall be appointed to fix the seat of justice, in any county not organized, it shall be the duty of said commissioners, to make report of their proceedings to the court of common pleas, of the county to which the county they may be appointed to fix the seat of justice in, is attached for judicial purposes.

SEC. 2. *And be it further enacted,* That the commissioners aforesaid shall be governed in all respects, except as is required of them by the first section of this act, by the provisions of the act, entitled "An act establishing seats of justice," and the said court of common pleas shall take cognizance of the proceedings of said commissioners, and be governed in all respects by the provisions of said act; and said commissioners shall be paid out of the treasury of the county to which said new county is attached.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

January 5, 1822.

## CHAPTER VIII:

*AN ACT, making a temporary appropriation to defray the expenditures of the Penitentiary, and for other purposes.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the sum of two thousand dollars, be and the same is hereby appropriated, to defray the expenditures of the penitentiary, to be paid out of the state treasury, upon the order of the auditor of state.

SEC. 2. *Be it further enacted,* That the sum of five hundred dollars, be and the same is hereby appropriated in part payment of the amount due P. H. Olmsted, for public printing, agreeably to contract.

SEC. 3. *And be it further enacted,* That the following sums be and the same are hereby appropriated for the payment of certain sheriffs of the fourth congressional district, for bringing to the seat of government the returns of a special election, for a member of congress, held in said district on the second Tuesday of October, eighteen hundred and twenty-one, to wit: for the payment of Rezin Arnold sheriff of Harrison county, twenty-six dollars and eighty-eight cents; William Allison sheriff of Guernsey county, twenty dollars and twenty-four cents; Jonathan Babb sheriff of Perry county, thirteen dollars and thirty-six cents; Horatio J. Cox deputy sheriff of Muskingum county, fifteen dollars and forty-four cents; Joseph Gadd deputy sheriff of Monroe county, twenty-six dollars and eighty cents; Robert Carroll sheriff of Jefferson county, thirty dollars and eighty-eight cents; Jacob C. Springer sheriff of Morgan county, nineteen dollars and seventy-six cents; William Perrine sheriff of Belmont county, twenty-six dollars and sixty-four cents; and Charles Miller sheriff of Coshocton county, seventeen dollars and four cents, and that the same be paid out of the state treasury upon the order of the auditor.

JOHN BIGGER,  
*Speaker of the house of representatives.*

ALLEN TRIMBLE,  
*Speaker of the senate.*

January 1, 1822.

## CHAPTER IX.

*AN ACT, to amend the act, entitled An act against forcible entry and detainer.*

Ten days notice to be given before	1	{ Fees of justices and jurors,	3
issuing writ,	1	{ Juries to consist of six persons,	4
Form of verdict,	2	{ Repealing clause,	5

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That where forcible detainer without a forcible entry, shall be alledged in the complaint made to any two justices, as prescribed in the act to which this is an amendment, it shall be the duty of the complainant, to notify the defendant at least ten days prior to issuing the writ, to leave the premises, which notice shall be served by leaving a written notice with the defendant, or at his usual place of abode.

SEC. 2. *Be it further enacted,* That where the complaint shall specify both forcible entry and detainer, it shall be the duty of the jury, if they find a verdict of guilty, to designate in such verdict whether they find the defendant guilty of forcible entry and detainer, or of forcible detainer alone, and if the jury find a forcible detainer only, and shall also find that the required notice agreeably to the first section of this act had not been given, the complainant shall not recover costs.

SEC. 3. *Be it further enacted,* That in all suits by virtue of this act, or the act to which this is an amendment, the justices shall each be entitled to receive as a compensation for his services, the sum of seventy-five cents, together with the same fees that are allowed by law for issuing similar writs and other process; and each juror shall receive fifty cents on rendering their verdict, to be paid by the party in whose favor such verdict is rendered, and the amount taxed in the bill of costs, and recovered as in other cases.

SEC. 4. *Be it further enacted,* That the jury in all actions of forcible entry and detainer or forcible detainer, shall consist of six competent jurors, and no more; any thing in the act to which this is an amendment notwithstanding.

SEC. 5. *And be it further enacted,* That the eighth section of the act to which this is an amendment, together with all

such parts thereof as comes within the purview of this act, be and the same is hereby repealed.

JOHN BIGGER,  
*Speaker of the house of representatives*  
 ALLEN TRIMBLE,  
*Speaker of the senate,*

December 18, 1821.

## CHAPTER X.

### *AN ACT, concerning divorce and alimony.*

The supreme court may grant divorces,	1	and pronouncing decree,	3
For what causes,	ib	Proviso in favor of children,	ib
Petition to be filed thirty days before court,	2	Provision as to distributing property in case of the husbands aggression,	4
Copy to be served on the other party.	ib	Provision in case of the aggression of the wife,	ib
Publication in case of non-resident,	ib	Barred of right of dower,	5
Summons to issue,	ib	Court authorized to grant alimony,	ib
Proceedings thereon,	ib	Repealing clause,	6
Duty of court in hearing parties		Proviso as to suits commenced,	ib

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the supreme court shall have the sole cognizance of granting divorces, where either of the parties had a former wife or husband living at the time of solemnizing the second marriage, or where either of the parties shall be wilfully absent from the other three years, or in case of adultery, or in case where either of the parties is actually impotent, at the time of the marriage, or in case of extreme cruelty, or where either party has been or shall hereafter be sentenced to imprisonment in the penitentiary, and is actually imprisoned therein, for any infraction of the criminal laws of this state: *Provided,* Application shall be made for a divorce during the time of imprisonment aforesaid.

SEC. 2. *Be it further enacted,* That in all cases where divorces shall be applied for, the complainant shall file his or her petition, in the office of the clerk of the supreme court, three months before the sitting of the said court, and shall also serve the adverse party with a copy of said petition, within one month after filing the same in the office as aforesaid; unless the party is not resident in the state, in which case public notice shall be given in one of the newspapers of the state,

for three months, which petition shall state the true cause of complaint; whereupon a summons shall issue, requiring the party complained of, to appear before the judges of the said court and answer the allegation of the said petition, which answer shall be received without oath; and if the party complained of shall not appear, or appearing, shall deny the fact or facts stated in the said petition, the court shall thereupon proceed to hear and determine the same, and it shall be the duty of the court to assign counsel to either party, when they are not of sufficient ability to pay an adequate compensation, and such counsel or attorney shall not charge or receive any compensation for such service.

SEC. 3. *Be it further enacted*, That if upon trial it shall appear by disinterested testimony, to the satisfaction of the court, that the party complained against had a husband or wife of a former marriage living, or was guilty of adultery, wilful absence, extreme cruelty, or where either party has been or shall hereafter, be sentenced to imprisonment in the penitentiary, and shall be actually imprisoned therein for any infraction of the criminal laws of this state: *Provided*, Application shall be made for a divorce during the time of imprisonment aforesaid, or actual impotence as aforesaid; then in any such case, the court may proceed by sentence or decree in the same court, to pronounce the marriage between the parties dissolved, and both of them freed from the obligation of the same: *Provided*, That the confession of neither of the parties shall be received as testimony: *Provided always*, That the dissolution of such marriage shall in no wise affect the legitimacy of the children thereof; and the court shall take such order for the distribution, care and maintenance of the children of such marriage, if any there be, as shall appear just and reasonable, and the circumstances of the parties may require.

SEC. 4. *Be it further enacted*, That when a divorce shall be decreed, in case of the aggression of the husband, the woman, if no issue of the marriage be living at the time of the divorce, shall be restored to all her lands and tenements, and be allowed out of the man's real and personal estate, such share as the court shall think reasonable, having regard to the personal property that came to him by marriage, and his ability at the time of the divorce; but if there be issue living at the time of the divorce, then in that case the court shall restore to the woman, such share of the personal property as circumstances may require; but if the divorce shall arise from the aggression of the wife, and there be no issue of the

marriage living at the time of divorce, the court may order to her restoration of the whole or part of the lands, tenements and hereditaments, as to them shall appear to be just and right, and also such share of the man's personal property as may appear reasonable, all circumstances considered.

SEC. 5. *Be it further enacted*, That when the cause of divorce shall arise from the aggression of the wife, she shall be barred of her right of dower, whether there be issue or not.

SEC. 6. *Be it further enacted*, That the said court shall have power to grant alimony to the wife, for her sustenance during the pendency of a petition, filed for any of the causes aforesaid; and in all the cases aforesaid, where she may file a petition for alimony alone, without a prayer for the dissolution of the bonds of matrimony.

SEC. 7. *And be it further enacted*, That the act concerning divorce and alimony, passed the twenty-ninth day of December, one thousand eight hundred and four, be and the same is hereby repealed: *Provided*, That all suits or actions now depending under the law hereby repealed, shall be prosecuted to final judgment and decree, under the provisions of said law as though the same were in full force.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

January 11, 1822.

## CHAPTER XI.

*AN ACT, to amend the act, entitled An act regulating marriages.*

Ministers to be licensed before au-	§	marriages,	2
thorized to solemnize marriages, 1		Further proceedings in renewing	
License to be renewed in every		licenses,	3
county where he may solemnize		Commencement,	ib

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio*, That any minister of the gospel upon producing to the court of common pleas of any county within this state, in which he officiates, credentials of his being a regular ordained minister, of any religious society or congregation, shall be entitled to receive from said court a license, authorizing him to solemnize marriages within this state, so long as

he shall continue a regular minister in such society or congregation.

SEC. 2. *Be it further enacted*, That it shall be the duty of every minister who is now, or hereafter, shall be licensed to solemnize marriages as aforesaid, to produce to the clerk of the court of common pleas, in every county in which he shall solemnize any marriage, his license so obtained, and the said clerk shall thereupon enter the name of such minister upon record as a minister of the gospel, duly authorized to solemnize marriages within this state, and shall note the county from which said license issued, for which service no charge shall be made by such clerk.

SEC. 3. *And be it further enacted*, That when the name of any such minister is so entered upon record, by the clerk aforesaid, such record or the certificate thereof, by the said clerk, under the seal of his office, shall be good evidence that the said minister was duly authorized to solemnize marriages agreeably to the laws of this state.

This act shall take effect and be in force from and after the first day of May next.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

January 11, 1822.

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## CHAPTER XII.

*AN ACT, further to amend the act, for proving and recording wills and codicils, defining the duties of executors and administrators, the appointment of guardians and the distribution of insolvent estates.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio*, That if any guardian or guardians shall neglect or refuse to comply with the duties enjoined on him, her or them, by the act to which this is an amendment; or shall waste or mismanage the estate of the ward or wards; or shall abuse, ill treat or in any way misuse said ward or wards, it shall be lawful for the court granting such letters of guardianship, upon complaint made by any person or persons interested, to remove such guardian or guardians upon good cause shewn, and proceed to appoint others in the manner pointed out by said act, or as near as the nature of the case will admit,

SEC. 2. *And be it further enacted,* That in all cases of intestate's estates, where there may be children left under lawful age, but no widow living, it shall be the duty of the appraisers at the time they appraise the personal property of the deceased, to set off for the use of such children, such property as they deem sufficient for their support for one year, in the same manner they are authorized by the twenty-fourth section of the act to which this is an amendment, to set off property for the support of the widow and children, where there may be a widow living; any thing in the said section to the contrary notwithstanding.

JOHN BIGGER,  
*Speaker of the house of representatives.*  
 ALLEN TRIMBLE,  
*Speaker of the senate*

December 20, 1821.

### CHAPTER XIII.

#### *AN ACT, to encourage the killing of Wolves.*

Amount of bounty for each scalp,	12	{	treasurer,	3
Scalp to be produced to clerk of		{	Clerks fees,	ib
court in twenty days,	2	{	County commissioners may offer	
Form of oath to be administered,	ib	{	an additional bounty,	4
Clerk to issue order on the state				

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That any person who shall kill any wolf or wolves, within this state, shall receive the following compensation, that is to say, for each wolf above six months old, the sum of three dollars; and for each wolf under the age of six months one dollar and fifty cents.

SEC. 2. *Be it further enacted.* That any person claiming such reward, shall produce the scalp or scalps of the wolf or wolves, so killed, with the ears entire, within twenty days after such wolf or wolves have been killed, to the clerk of the court of common pleas of the county within which such wolf or wolves were killed, which clerk shall administer to the person producing the scalp or scalps as aforesaid, the following oath or affirmation, (as the case may be,) you A B do solemnly swear or affirm, (as the case may be,) that the scalp or scalps now produced by you is the scalp or scalps of a wolf or wolves (as the case may be,) that were taken and killed



within this county by you within twenty days last past, and you verily believe the same to have been over or under the age of six months, (as the case may be) and that you have not spared the life of any she wolf within your power to kill, with a design to increase the breed, which oath or affirmation shall be by the clerk taken in writing and subscribed by the person presenting the scalp or scalps aforesaid.

SEC. 3. *Be it further enacted*, That the clerk before whom such oath or affirmation was made, after causing the scalp or scalps to be destroyed in his presence, shall file the deposition so taken, in his office, and under the seal thereof grant to the person an order on the treasurer of state for the amount of monies that may be due such person by the provisions of the first section of this act, and the person receiving such order shall pay to the clerk granting the same twenty five cents, which order shall be received by any collector of the taxes on land in discharge thereof.

SEC. 4. *Be it further enacted*, That the county commissioners of any county within this state may increase the bounty for wolf scalps to six dollars, which additional bounty shall be paid out of the county treasury on the order of the county auditor.

JOHN BIGGER,  
*Speaker of the house of representatives.*  
ALLEN TRIMBLE,  
*Speaker of the senate.*

December 22, 1821.

#### CHAPTER XIV.

*AN ACT, to amend the act levying a tax upon sales at auction in certain cases.*

Duty of county treasurer to transmit money annually,	1	{	Penalty on treasurer and county auditor for neglect,	ib
County auditor to transmit treasurers receipts to state auditor annually,	2		Fines how applied,	ib

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio*, That it shall be the duty of each and every county treasurer, with whom any money may be deposited, in conformity with the provisions of the act to which this is amendatory, on or before the first day of January of each and

every year, to transmit to the auditor of state, a correct statement of all the monies by him received as aforesaid, together with the whole amount of money at that time in his possession, received as aforesaid, by the collector of the county in which he resides.

SEC. 2. *And be it further enacted*, That it shall be the duty of the auditor of each and every county, with whom any auctioneer may have lodged the receipts of any county treasurer, according to the provisions of the act to which this is an amendment, to transmit such receipt or receipts to the auditor of state, on or before the first day of January in each year, and on failure of the treasurer or auditor of any county, to perform the duties required of them, or either of them, by this act or the act to which this is an amendment, they or either of them shall forfeit and pay any sum not exceeding two hundred dollars, to be recovered on the suit of the auditor of state, in any court of the proper county, having competent jurisdiction; and all fines so received, shall be applied to the same purpose as the tax raised by the act to which this is an amendment.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

January 25, 1822.

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## CHAPTER XV.

*AN ACT, to amend the several acts defining and regulating the duties of Auditor and Treasurer of state.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio*, That the auditor and treasurer of state, shall in their annual report at the commencement of each session of the General Assembly, be required to report the state of the public accounts and funds, to the fifteenth day of November preceding such session, and in addition to the information now required of the auditor by law, in the annual report, he shall make a statement of the unexpended balances of the several appropriations, if any.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

January 29, 1822.

## CHAPTER XVI.

*AN ACT, regulating the times of holding Judicial Courts.*

Times of holding the supreme courts	1	5	Do in the sixth circuit,	7
Nine circuits of common pleas,	2	5	Do in the seventh circuit,	8
Times of holding courts in the first	3	5	Do in the eighth circuit,	9
Circuit,	4	5	Do in the ninth circuit,	10
Do in the 2d circuit,	5	5	Provision when any court is ap-	
Do in the third circuit,	6	5	pointed to be held on Sunday,	11
Do in the fourth circuit,	7	5	Repealing clause,	12
Do in the fifth circuit,	8	5		

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the supreme court shall commence and hold its sessions as follows, to wit: in the county of Butler, on the first day of April; in the county of Preble, on the fifth day of April; in the county of Montgomery, on the eighth day of April; in the county of Dark, on the thirteenth day of April; in the county of Miami, on the fifteenth day of April; in the county of Shelby, on the nineteenth day of April; in the county of Logan, on the twenty-second day of April; in the county of Champaign, on the twenty-third day of April; in the county of Clark, on the twenty-seventh day of April; in the county of Madison, on the first day of May; in the county of Union, on the fourth day of May; in the county of Delaware, on the sixth day of May; in the county of Pickaway, on the ninth day of May; in the county of Fayette, on the sixteenth day of May; in the county of Green, on the twentieth day of May; in the county of Clinton, on the twenty-fourth day of May; in the county of Highland, on the twenty-seventh day of May; in the county of Ashtabula, on the thirtieth day of May; in the county of Geauga, on the third day of June; in the county of Cuyahoga, on the sixth day of June; in the county of Huron, on the tenth day of June; in the county of Sandusky, on the fourteenth day of June; in the county of Wood, on the seventeenth day of June; in the county of Richland, on the twentieth day of June; in the county of Wayne, on the twenty-fourth day of June; in the county of Medina, on the twenty-eighth day of June; in the county of Portage, on the first day of July; in the county of Trumbull, on the fourth day of July; in the county of Warren, on the eighth day of July; in the county of Hamilton, on the fifteenth day of July; in the county of Clermont, on the twelfth day of August; in the county of Brown, on the sixteenth day of August; in the county of Adams, on

the twenty-second day of August; in the county of Scioto, on the twenty-sixth day of August; in the county of Pike, on the thirtieth day of August; in the county of Stark, on the second day of September; in the county of Tuscarawas, on the fifth day of September; in the county of Coshocton, on the ninth day of September; in the county of Knox on the twelfth day of September; in the county of Licking, on the sixteenth day of September; in the county of Perry, on the twentieth day of September; in the county of Fairfield, on the twenty-third day of September; in the county of Hocking, on the thirtieth day of September; in the county of Athens, on the second day of October; in the county of Jackson, on the fourth day of October; in the county of Lawrence, on the seventh day of October; in the county of Gallia, on the tenth day of October; in the county of Meigs, on the fourteenth day of October; in the county of Washington, on the seventeenth day of October; in the county of Morgan on the twenty-fourth day of October; in the county of Muskingum, on the twenty-eighth day of October; in the county of Guernsey, on the seventh day of November; in the county of Monroe, on the eleventh day of November; in the county of Belmont, on the fourteenth day of November; in the county of Harrison, on the eighteenth day of November; in the county of Jefferson, on the twenty-first day of November; in the county of Columbiana, on the twenty-seventh day of November; in the county of Franklin, on the second day of December; and in the county of Ross, on the ninth day of December.

SEC. 2. *Be it further enacted*, That there shall be nine circuits of the courts of common pleas within this state: and the first circuit shall be composed of the counties of Montgomery, Clark Champaign, Logan, Dark, Miami and Shelby; and the courts of common pleas shall commence and be holden therein as follows, to wit: in the county of Montgomery on the twenty-sixth day of February, the third day of June, and twenty-third of September: in the county of Clark on the eleventh day of March, the tenth day of June and seventh day of October: in the county of Champaign on the eighteenth day of March, the seventeenth day of June and fourteenth day of October: in the county of Logan on the twenty-fifth day of March, the twenty-fourth day of June and twenty-first day of October; in the county of Dark on the seventh day of May, the thirtieth day of July and the twenty-ninth day of October: in the county of Miami on the fourteenth day of May, sixth day of August and

the fifth day of November: and in the county of Shelby on the twentieth day of May, the twelfth day of August and the eleventh day of November.

SEC. 3. *Be it further enacted*, That the second circuit shall be composed of the counties of Hocking, Fayette, Highland, Brown, Adams and Ross, and the courts of common pleas shall commence and be holden therein as follows, to wit: in the county of Hocking on the eighteenth day of March, twelfth day of July and fourteenth day of October: in the county of Fayette on the twenty-fifth day of March, fifteenth day of July and twenty-first day of October: in the county of Highland on the first day of April, twenty-second day of July and twenty eighth day of October: in the county of Brown on the eighth day of April, the twenty-ninth day of July and fourth day of November: in the county of Adams on the fifteenth day of April, fifth day of August and eleventh day of November: and in the county of Ross on the twenty-fifth day of February, seventeenth day of June and thirtieth day of September.

SEC. 4. *Be it further enacted*, That the counties of Portage, Medina, Huron, Cuyahoga, Ashtabula, Geauga and Trumbull shall compose the third circuit; and the courts of common pleas shall commence and be holden therein in the following manner, to wit: in the county of Portage on the third Monday of February and third Monday in September: in the county of Medina on the fourth Monday in February and fourth Monday of September: in the county of Huron on the first Mondays after the sitting of the courts in Medina: in the county of Cuyahoga on the second Monday in March and first Monday in October: in the county of Geauga on the fourth Monday in March and third Monday in October: in the county of Ashtabula on the first Monday in April and fourth Monday in October: and in the county of Trumbull on the second Monday in April and first Monday in November: and the counties of Wood and Sandusky shall be attached to the third circuit, and the courts of common pleas shall be holden in the county of Wood on the third Monday of May and first Monday of September; and in the county of Sandusky on the Thursdays next after the times of holding the courts in the county of Wood; and the President of the third circuit shall be allowed the sum of one hundred and fifty dollars, as a compensation for going to and holding courts in said counties of Wood and Sandusky, so long as the same remain attached to his circuit, in addition to the salary now allowed said president by law, to be paid in the same manner as said salaries are now paid.

**SEC. 5.** *Be it further enacted,* That the counties of Richland, Wayne, Tuscarawas, Coshocton, Knox, Licking and Muskingum shall compose the fourth circuit, and the courts of common pleas shall commence and be holden therein as follows, to wit: in the county of Richland on the first day of April, the twenty-ninth day of July and the eleventh day of November: in the county of Wayne on the eighth day of April, the fifth day of August and the eighteenth day of November: in the county of Tuscarawas on the fifteenth day of April, the twelfth day of August and twenty-fifth day of November: in the county of Coshocton on the twenty-second day of April, the nineteenth day of August and the second day of December: in the county of Knox on the twenty-ninth day of April, the twenty-sixth day of August and the ninth day of December: in the county of Licking on the sixth day of May, the second day of September and the sixteenth day of December: and in the county of Muskingum on the fourth day of March, the twenty-fourth day of June and the seventh day of October.

**SEC. 6.** *Be it further enacted.* That the counties of Guernsey, Monroe, Belmont, Harrison, Stark, Columbiana and Jefferson shall compose the fifth circuit; and the courts of common pleas shall be commenced and holden therein as follows, to wit: in the county of Guernsey on the eighteenth day of February, twenty-second day of April and sixteenth day of September: in the county of Monroe on the twenty-first day of February, the twenty-fifth day of April and nineteenth day of September: in the county of Belmont on the twenty-fifth day of February, the twenty-ninth day of April and twenty-third day of September: in the county of Harrison on the fourth day of March, the sixth day of May and thirtieth day of September: in the county of Stark on the eleventh day of March, the thirtieth day of May and seventh day of October: in the county of Columbiana on the eighteenth day of March, the twentieth day of May and fourteenth day of October: and in the county of Jefferson on the twenty-fifth day of March, the twenty-seventh day of May and twenty-first day of October.

**SEC. 7.** *Be it further enacted,* That the counties of Fairfield, Perry, Pickaway, Franklin, Delaware, Union and Madison shall compose the sixth circuit; and the courts of common pleas shall commence and be holden therein as follows, to wit: in the county of Fairfield on the twenty-fifth day of February, the third day of June and seventh day of October: in the county of Perry on the eleventh day of March, tenth

day of June and fourth day of November: in the county of Franklin on the first day of April, the first day of July and twenty-eighth day of October: in the county of Pickaway on the eighth day of April, the twenty-ninth day of July and eleventh day of November: in the county of Delaware on the fifteenth day of April, the fifteenth day of July and eighteenth day of November: in the county of Union on the eighteenth day of April, eighteenth day of July and twenty-first day of November: and in the county of Madison on the fifteenth day of May, the fifth day of August and twenty-fifth day of November.

SEC. 8. *Be it further enacted,* That the counties of Warren, Green, Butler, Preble and Clinton shall compose the seventh circuit; and the courts of common pleas shall commence and be holden therein as follows, to wit: in the county of Warren on the fourth day of March, the third day of June and first day of October: in the county of Green on the eighth day of April, the twenty-fourth day of June and twenty-first day of October: in the county of Butler on the fifteenth day of April, the fifth day of August and twenty-eighth day of October: in the county of Preble on the twenty-ninth day of April, the nineteenth day of August and eleventh day of November: and in the county of Clinton on the seventh day of May, the twenty-sixth day of August and eighteenth day of November.

SEC. 9. *Be it further enacted,* That the counties of Pike, Jackson, Athens, Morgan, Washington, Meigs, Gallia, Lawrence and Scioto shall compose the eighth circuit; and the courts of common pleas shall commence and be holden therein as follows, to wit: in the county of Pike on the fourth day of March, the twenty-fourth day of June and fourteenth day of October: in the county of Jackson on the eleventh day of March, the first day of July and twenty-first day of October: in the county of Athens on the eighteenth day of March, the eighth day of July and twenty-eighth day of October: in the county of Morgan on the twenty-fifth day of March, the fifteenth day of July and fourth day of November: in the county of Washington on the first day of April, twenty-second day of July and eleventh day of November: in the county of Meigs on the eighth day of April, the twenty-ninth day of July and eighteenth day of November: in the county of Gallia on the fifteenth day of April, the fifth day of August and twenty-fifth day of November: in the county of Lawrence on the twenty-second day of April, the twelfth day of August and the second day of December: and in the

county of Scioto on the twenty-ninth day of April, the nineteenth day of August and ninth day of December.

SEC. 10. *Be it further enacted*; That the counties of Clermont and Hamilton shall compose the ninth circuit; and the courts of common pleas shall commence and be holden therein as follows, to wit: in the county of Clermont on the eighteenth day of March, nineteenth day of August an eighteenth day of November: and in the county of Hamilton on the sixth day of May, twenty-third day of September and last Monday in January.

SEC. 11. *Be it further enacted*, That should the day mentioned in this act, for the holding of any court fall on Sunday, the court shall commence and be holden on the day following.

SEC. 12. *Be it further enacted*, That the act, entitled An act regulating the times of holding judicial courts, passed the 2d day of February, 1821, together with all other acts and parts of acts on the subject of the times of holding judicial courts, are hereby repealed; and all suits pending or process commenced in any of said courts, at the time of the taking effect of this act, shall be continued or returned to the next terms of said courts respectively, after the taking effect of this act.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 1, 1822.



## CHAPTER XVII.

*AN ACT, providing for the remission of penalties and for the sale of lands for taxes.*

Manner of collecting arrearages on land prior to the year 1820	1	land and tax six weeks in a newspaper	5
Tax to be received with common interest and without penalty if paid by the 10th December 1822	2	County auditor to demand judgment of the next court of common pleas after publication	ib
State Auditor to transmit old arrearages to county auditors by 1st May 1822	3	Manner of proceeding before court	ib
Duty of county auditors in comparing lists of arrearages of land tax	ib	Jurors fees on trial	ib
His duty in correcting lists of land tax	ib	Further proceeding before court	ib
His duty in publishing lists of arrearages	ib	No appeal or writ of error allowed	ib
His duty in certifying corrected list to the auditor of state	ib	Proviso as to correcting errors	ib
State Auditor to publish in two newspapers that old arrearages of tax will be received without penalty if paid by 10th December next	ib	State to pay no cost	ib
Duty of State Auditor in comparing and revising lists received from county auditor's	4	Duty of clerk to make out list of judgments and order of sale	6
His duty in making out duplicates of corrections and revisions and forwarding the same to county auditors	ib	Auditor to give 30 days notice of sale by advertisement	7
County auditor to publish lists of		Auditor's duty in making sales of land for taxes	ib
		Auditor to give a certificate of sale directed to the county surveyor	8
		Duty of surveyor	ib
		His compensation	ib
		Plat and certificate to be returned to court	ib
		Duty of court in examining and approving of sales	9
		Auditor to make deeds to purchaser	ib
		His compensation therefor	ib
		Validity of Deed	ib
		Proceedings when land is not sold for want of bidders	10

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That all taxes, interest and penalties, which have accrued or become due upon lands and remain unpaid, prior to the year eighteen hundred and twenty, shall be collected in the manner herein after described.

SEC. 2. *Be it further enacted,* That the state treasurer, and the treasurers of the respective counties, be and they are hereby authorized to receive, until the tenth day of December next, all arrearages of land taxes which may have become due, previous to the year one thousand eight hundred and twenty, with legal interest on each year's taxes from the time the same was due. And in case the arrearages of taxes and interest on any lands shall be paid on or before the said tenth day of December next, all penalties which may have accrued thereon previous to the year eighteen hundred and twenty, shall be and the same is hereby remitted.

**Sec. 3.** *Be it further enacted,* That the auditor of state shall on or before the first day of May next, transmit to the several county auditors a list of the lands within their respective counties on which arrearages of taxes were charged previous to the year eighteen hundred and twenty, and upon which the arrearages of taxes, penalties and interest so charged have been paid since sending out the lists of delinquent lands to the several counties in the year eighteen hundred and twenty, and also a statement of all corrections by him since made in said lists, and each county auditor shall on the receipt of such list and statement, proceed to compare the same, and also the duplicates and other documents in his office, with said list of delinquent lands transmitted to his office in the year eighteen hundred and twenty, and from such comparison and such other information as he may be able to procure, make such corrections in such delinquent list as to him may appear just and proper, and he shall immediately thereafter cause a list of such lands which may appear delinquent, thus corrected with the amount due on each tract to be published as is directed in other cases of delinquencies agreeably to the provisions of the thirty-sixth section of the act levying a tax on land passed February eighth, eighteen hundred and twenty, all arrearages of taxes and interest which may be paid into the state treasury under the provisions of the second section of this act shall be certified and receipted for agreeably to the provisions of the thirty-third section of the above recited act: And all taxes and interest which may be paid into the treasury of any county, shall be certified, receipted and accounted for, & the county auditor shall make out and transmit a statement thereof to the auditor of state as directed by the forty-fifth section of the above recited act: And the county auditor shall moreover transmit at the same time and in the same manner to the auditor of state a statement of all alterations and corrections by him made as aforesaid in said delinquent list. And the state auditor shall forthwith after the passage of this act give notice in one of the newspapers printed at Columbus and also in the National Intelligencer, that all arrearages of land taxes with legal interest thereon, which may have been due previous to the year eighteen hundred and twenty, will be received until the tenth day of December next exempt from all penalties which may have accrued prior to the said year eighteen hundred and twenty.

**SEC. 4.** *Be it further enacted,* That the state auditor after receiving from the respective county auditors, a list of the lands upon which the arrearages of taxes and interest may have been paid, and a statement of the alterations and corrections made in the list of delinquent lands by the county auditors, agreeably to the foregoing provisions of this act, shall forthwith proceed to compare each and every tract and part of a tract of land, upon which any arrearages of taxes may appear due, with the copies of the original entries, marginal notes, withdrawals, duplicates and transfers in his office, and also with all lists, transfers and papers which may have been received into his office, both from the county commissioners and from the county auditors; and if upon such examination he shall be satisfied that any arrearages of taxes has been twice or improperly charged, or that any part of the taxes so charged has been paid, he shall note such improper charge, and give credit for any taxes so paid, in a book to be by him kept for that purpose; and he shall then make out a list or duplicate of all lands upon which any arrearages of taxes, penalties and interest may still remain due, previous to the year eighteen hundred and twenty. charging each tract or part of a tract, with all such arrearages of taxes, penalties and interest which may actually remain due and unpaid or remitted as herein before provided, and he shall also add to such charge any taxes, penalties and interest which may have accrued on such land, since the commencement of the year eighteen hundred and twenty; and the state auditor shall make out from his general list or duplicate, a separate list or duplicate of the delinquent land within the bounds of each county, as nearly as he can ascertain the same, which he shall certify under his official seal, and transmit to the auditor of the proper county.

**SEC. 5.** *Be it further enacted,* That each county auditor immediately upon the receipt of such list or duplicate from the state auditor, shall cause a transcript thereof to be advertised for six weeks successively, in some newspaper having general circulation in such county where the lands lie; which advertisement shall set forth that at the next succeeding court of common pleas for said county, a motion will be made to said court for a judgment in the name of the state of Ohio, for the amount of said tax, interest and penalties against the person in whose name said taxes, interest and penalties are charged, and it is hereby made the duty of each county auditor within this state, who shall have advertised as aforesaid, to appear at the court of common pleas

for his proper county, according to the terms of said notice and demand a judgment as aforesaid, in all cases where he may be satisfied that such taxes, penalties and interest may have been correctly and legally charged and still remain unpaid; and if the person or persons interested in said lands, shall appear and contest the claim of the state, it shall be the duty of the prosecuting attorney for said county, to appear and prosecute on behalf of the state, and the said court at the request of the person or persons contesting the said claim, and for good cause shewn, may continue the cause or summon a jury to try the same, each member of which jury, on the rendition of their verdict, shall receive the sum of fifty cents, to be paid by the defendant, and if no person appears to contest the claim of the state as aforesaid, it shall be the duty of said court, on motion, to render judgment for the amount appearing to be due, with costs that may have accrued, which shall be recorded by the clerk of said court, from which judgment there shall be no appeal or writ of error to any superior court; and said auditor shall proceed as aforesaid from term to term, until judgment shall be entered in all cases contained in said list and advertisement: *Provided however*, That if the owner of any tract or part of a tract so as aforesaid advertised, or any other person interested therein, shall at any time before the sale of such tract or part of a tract, produce to the county auditor a certificate from the auditor of state, certifying that such tract or part of a tract was improperly charged, or that the taxes thereon have been paid, which certificate the auditor of state is hereby authorized, on satisfactory evidence, to grant; or if such person shall produce to the county auditor, receipts for the taxes chargeable on such tract or part of a tract, or shall by any other satisfactory evidence, satisfy such auditor that such land was improperly or illegally charged with such arrearages, or that all legal taxes thereon have been paid, such auditor shall stay proceedings against said land or the owners thereof, and strike such tract or part of a tract from the delinquent list, or give credit thereon for the amount which appears to have been paid, and proceed to collect the balance as the case may require: *Provided*, That the state in no case shall be liable for costs.

SEC. 6. *Be it further enacted*, That the clerk of the court of common pleas, in all cases where judgment shall be rendered as aforesaid, shall on application of the auditor of the county, make out a list of said judgment or judgments, under the seal of said court, with an order of court for the sale of

such lands, to satisfy such judgment or judgments, and deliver the same to said auditor, who shall proceed to sell the lands charged with said judgment in the manner herein after pointed out.

SEC. 7. *Be it further enacted*, That previous to the sale of any lands, under the provisions of this act, it shall be the duty of the auditor to advertise the same in a newspaper having general circulation in the county wherein such lands are situate, thirty days previous to the day of sale, which advertisement shall set forth the time and place of sale, and the amount of the judgment and costs for which the same are to be sold, and the auditor shall attend at the same time and place of sale, and proceed to sell the same to the person or persons, who will pay the said judgment and costs for the least number of acres, and the said auditor shall previous to the sale, designate from what part of said tract the part sold shall be taken; and if the person or persons to whom the same may be struck off shall refuse to pay the amount of said judgment and costs, the county auditor shall proceed to offer the same from time to time, for the space of three days in succession, unless previously sold.

SEC. 8. *Be it further enacted*, That the auditor, after the sale of any tract of land under the provisions of this act, shall give to the purchaser a certificate thereof, directed to the surveyor of the county, designating the purchase; and it shall be the duty of said county surveyor to proceed to survey the same to said purchaser, for which he shall receive from said purchaser the sum of two dollars per day; and said surveyor shall make a plat of such survey, and return the same to the office of the clerk of the court of common pleas for the proper county, and it shall be the duty of such clerk to file the same in his said office.

SEC. 9. *Be it further enacted*, That the auditor at the court of common pleas next succeeding the return of the plat of the county surveyor, as provided by this act, shall produce to said court a list of the sales by him made; and if on examination, said court shall be satisfied the sales have been made according to the provisions of this act, they shall order said auditor to make a deed to the purchaser for the tract so sold and surveyed as aforesaid, which deed shall be made, signed and sealed by said auditor, and attested by two subscribing witnesses; for which the said auditor shall be entitled to receive the sum of one dollar, to be paid by the purchaser, and the said deed shall be acknowledged and recorded as deeds in other cases are by the laws of this state, the costs of which

shall be paid by the purchaser, and the said deed shall convey to the purchaser all the title either in law or equity, which the owner had in the lands described in said deed, at any time after the taxes, interest and penalties, or either, for which the same was sold, began to accrue, and shall be received in all courts in this state and elsewhere, as prima facie evidence of good title to the lands mentioned therein, nor shall the title conveyed by such deed, be invalidated or affected by the reversal of such judgment or any error therein, or by any error in any proceedings previous to the rendition of any such judgment, relating to the charging or collecting of taxes on such lands, or the obtaining of any such judgment.

SEC. 10. *And be it further enacted,* That where any tract or part of a tract of land, charged for the payment of taxes, and exposed to sale as aforesaid, is not sold for the want of bidders, it shall be the duty of the auditor offering the same for sale, to return the same to the office of the auditor of state, on or before the fifteenth day of December next succeeding the time said land was offered for sale, and the auditor of state shall make a record thereof, and the same shall be considered as forfeited to the state, and shall become the property of the state of Ohio, and be subject to be disposed of in such manner as any future legislature may direct.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

January 30, 1822.

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## CHAPTER XXIII.

*AN ACT, for the relief of tenants in common, and joint tenants in certain cases.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That in all cases where any tract or tracts of land may be owned by two or more persons, as joint tenants or tenants in common, and one or more of the proprietors shall have paid, or may hereafter pay, the taxes, or taxes, penalties and interest, chargeable on his or their part or proportion of such tract or tracts; and any taxes, or taxes, penalties and interest on any other part or proportion of said tract or tracts, may remain due and unpaid; and partition of such

tract or tracts shall be made, whereby the part or proportion, on which the taxes, penalties and interest shall have been paid, shall be set off to the owner or owners thereof, they shall hold the same free from all such taxes, penalties and interest, charged on such tract or tracts, in common, before partition, and so as aforesaid remaining unpaid, and free from all liabilities therefor; and such taxes, or taxes, penalties and interest, shall be considered and adjudged, as attaching to, and shall be and remain charged on the proportion or proportions of such tract or tracts which shall be set off, or remain to the proprietor or proprietors, on whose proportion or proportions such taxes, or taxes, penalties and interest, shall not have been paid previous to such partition.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

January 31, 1822.

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## CHAPTER XXIV.

*AN ACT, to repeal the thirty-fourth section of the act, entitled  
An act for opening and regulating roads and highways.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio* That the thirty-fourth section of the act, entitled "An act for opening and regulating roads and highways," passed February twenty-sixth, one thousand eight hundred and twenty, be and the same is hereby repealed.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 1, 1822.

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## CHAPTER XXV.

*AN ACT, for the protection of steam-boats owned by citizens of  
this state, and navigated on Lake Erie.*

Whereas, in and by an act of the legislature of the state of New-York, passed April the eleventh, in the year of our Lord, one thousand eight hundred and eight, it is provided "That no

person or persons, without the licence of the person entitled to an exclusive right to navigate the waters of that state (under a law of the same) with boats moved by steam or fire, or those holding a major part of the interest in such privilege, shall set in motion or navigate upon the waters of the said state, or within the jurisdiction thereof, any boat or vessel moved by steam or fire; and that the said person or persons so navigating with boats or vessels moved by steam or fire, in contravention of the said exclusive right, shall forfeit such boat or boats and vessels, together with the engine, tackle and apparel thereof, to the person claiming such exclusive right." Therefore, to protect the rights of our own citizens who may navigate the waters of Lake Erie, with boats moved by steam or fire:

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That no person or persons shall be permitted to land any passenger or passengers (except as hereinafter mentioned) on the shore of Lake Erie, within the jurisdiction of this state, from any boat or water-craft whatever, where the said boat or water-craft shall have received said passenger or passengers, from a boat moved by steam or fire, where the owner or owners of said boat last mentioned, shall claim the right and privilege to navigate so much of the waters of Lake Erie, as is within the jurisdiction of the state of New-York, under colour of any law of said state, granting the exclusive right of navigation to Robert R. Livingston and Robert Fulton and their assigns: *Provided however,* This act shall not extend to the landing of any passenger or passengers from any boat owned as aforesaid, and moved by steam or fire, where the life of any passenger or passengers shall be endangered by the stress of weather, or from any other cause whatever: *And provided also,* That the provisions of this act shall not extend to any person or persons who shall land any passenger or passengers, taken from any steam boat owned as aforesaid, and moved by steam or fire, where such owner or owners, in whom the exclusive right as aforesaid is or shall be vested, shall give and grant free of contribution to such citizens of this state, as are or shall be owners of a boat moved by steam or fire when thereunto requested, the privileges of navigating so much of the waters of Lake Erie, as are within the jurisdiction of New-York.

SEC. 2. *Be it further enacted,* That each and every person who shall in violation of the preceding section of this act, land any passenger or passengers within the jurisdiction of this state on the shore of Lake Erie, shall forfeit and pay the



sum of one hundred dollars for each and every passenger so landed, to be recovered in an action of debt, in any court having cognizance thereof, one moiety to the treasury of the state, and the other moiety to the use of the person who shall prosecute the same to effect, together with the costs of suit.

SEC. 3. *And be it further enacted* That any person prosecuting under the previous provisions of this act, may sue a *capias ad respondendum*, and hold the person or persons violating the foregoing provisions, to enter bail for his or their appearance, on the return of the writ to the court having cognizance of such suit.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the Senate.*

February 1, 1822.

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## CHAPTER XXVI.

*An act authorising an examination into the practicability of connecting Lake Erie with the Ohio River by a Canal.*

WHEREAS, a navigable communication between Lake Erie and the Ohio river would greatly promote the agricultural, manufacturing and commercial interests of the good people of the state of Ohio; and would unite, by the cementing influence of interest and commercial intercourse, the most remote parts of the United States, thereby strengthening the bonds of their political Union: And whereas, the practicability of making such navigable communication, has not been satisfactorily ascertained by an experienced and skillful engineer: Therefore with a view to obtain accurate information touching this highly interesting subject.

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio*, That the Governor be, and he is hereby authorised to employ an approved practical Engineer, whose duty it shall be to make such surveys and examinations of the country between Lake Erie and the Ohio river, with a view to ascertain the practicability of uniting those waters by a navigable canal. as is directed in this act.

SEC. 2. *Be it further enacted*, That Benjamin Tappan, Alfred Kelly, Thomas Worthington, Ethan A. Brown, Jeremiah Morrow, Isaac Minor and Ebenezer Buckingham jr,

be and they are hereby appointed commissioners, whose duty it shall be to cause such examinations, surveys and estimates to be made by the engineer as aforesaid, as may be necessary to ascertain the practicability of connecting Lake Erie with the Ohio river by a canal through the following routes, viz: from Sandusky Bay to the Ohio river; from the Maume river to the Ohio river; from the Lake to the river aforesaid by the sources of the Cuyahoga and Blackriver and the Muskingum rivers; and from the Lake by the sources of the Grand and Mahoning rivers to the Ohio river. And it shall be their duty to make, or cause estimates to be made, as near as can be, of the probable cost of cutting a canal on each of said routes, if found practicable; and to make an estimate of their comparative advantages for a canal, which estimates it shall be their duty to report, so far as may be completed, to the next General Assembly, accompanied with their views generally, and such information touching the contemplated improvements as they may deem important.

SEC. 3. *Be it further enacted*, That it shall be the duty of the commissioners, aforesaid to meet at Columbus at as early a day as an Engineer can be obtained, on the notification of the Governor, who shall name the time, and at such other times and places as they may deem necessary for the promotion of the objects hereby intended. And it shall be their duty, when convened as aforesaid to make the necessary arrangements and preparations for the commencement of the proposed surveys and examinations—to employ the necessary assistants to enable the engineer to discharge the duties required of him—to take the necessary measures to obtain such information generally, as will promote the objects of the surveys and estimates hereby authorised; and to make report of the same as required by the second section of this act. And it shall be their further duty, or a majority of them to report to the next general assembly, such views and information as they may be enabled to obtain as to the ways and means of making such canal, should it be found practicable.

SEC. 4. *And be it further enacted*, That a sum not exceeding six thousand dollars, be and the same is hereby appropriated, for the payment of the charges and expenses which may be incurred in making the surveys and estimates hereby authorised, to be paid out of any money in the treasury not

otherwise appropriated, on the certificate of the commissioners accompanied by proper vouchers.

JOHN BIGGER,

*Speaker of the house of representatives,*

ALLEN TRIMBLE,

*Speaker of the senate*

January 31, 1822.

## CHAPTER XVII.

*AN ACT, to provide for an extra session of the General Assembly.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That for the purpose of dividing the state into districts for the election of such number of representatives as this state may be entitled to in the congress of the United States, there shall be an extra session of the general assembly which shall commence at the town of Columbus on the third Monday in May next: *Provided however,* That if the congress of the United States shall not pass a law at their present session making an apportionment of representatives in congress, according to the census of eighteen hundred and twenty, then and in that case this act shall be void and of none effect.

JOHN BIGGER,

*Speaker of the House of Representatives.*

ALLEN TRIMBLE,

*Speaker of the Senate.*

February 2, 1822.

## CHAPTER XVIII.

*AN ACT, to amend the act entitled "An act to regulate the Scioto Salt Works."*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the agent of the Scioto Salt Works shall be, and he is hereby, authorized to remit to any lessee of the lands commonly called the "reservation" on which the said Scioto Salt Works are situate, thirty-three and a third per cent of the rent or rents now due on leases, granted in the year 1819, from any such lessee of said land.

**SEC. 2.** *Be it further enacted,* That the said agent be and he is hereby authorized to grant new leases to the lessees whose rents are unpaid, as soon as the rents so due are well secured to be paid by the said lessees.

**SEC. 3.** *Be it further enacted,* That the said agent shall be, and he is hereby authorized to collect any rents now due, or to become due according to the provisions of the act of the general assembly, passed at the present session entitled "An act regulating judgments and executions."

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 2, 1822.

## CHAPTER XIX,

**AN ACT,** relating to the printing and distribution of the laws and journals.

**SEC. 1.** *Be it enacted by the General Assembly of the state of Ohio,* That in making contracts for public printing hereafter, provision shall be made for printing in a separate volume, twelve hundred and fifty copies of the acts of a local nature, which may be passed during the session of the General Assembly next succeeding such contract, and the number of copies of the journals of both houses to be printed, shall also be twelve hundred and fifty.

**SEC. 2.** *Be it further enacted,* That the fourth section of the act, entitled An act for the more speedy distribution of the laws and journals, and for other purposes, passed the seventeenth day of February, one thousand eight hundred and nine, be and the same is hereby repealed.

**SEC. 3.** *Be it further enacted,* That contracts shall be made annually, in the manner prescribed by law, in relation to the public printing, for folding, collating and stitching the laws and journals, and such contracts shall designate the sum to be paid for folding each hundred sheets of sixteen pages, and the sum to be paid for collating and stitching each hundred volumes.

JOHN BIGGER,

*Speaker of the house of representatives,*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 2, 1822.

## CHAPTER XX.

*AN ACT, to amend an act entitled an act to amend the fourteenth section of the act to incorporate the original surveyed townships, passed the second day of February, 1821.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That no person shall be so far considered an adherent of any religious society, as to be entitled to an equal dividend of the rent arising from section No. twenty-nine, within the township in which such person resides, granted by Congress for religious purposes; until such person shall have arrived at full age.

SEC. 2. *Be it further enacted.* That so much of the act to which this is an amendment, as requires each person to have his or her name enrolled as a member of a religious society, in order to be accounted an adherent of such society, be and the same is hereby repealed.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 2, 1822.

## CHAPTER XXI.

*AN ACT, making provision for carrying into effect the act for the punishment of crimes.*

Convicts to be transported to penitentiary in 30 days,	1	Salary of keeper and agent,	6
Bill of costs, &c. to accompany convicts,	ib	Keeper to apply to inspector for funds quarterly,	7
Proviso when more than one convict is to be transported at the same time,	ib	Keeper to purchase materials, &c. and draw an order on the inspector,	ib
Keeper to certify sheriffs accounts,	ib	Inspector to draw orders on auditor	ib
Management of convicts on their arrival,	2	Keeper to report to inspector monthly,	ib
Manner of clothing convicts,	3	Keeper to discharge old debts and purchase materials,	9
Subsisting of convicts,	ib	To deposit receipts in auditors office,	ib
Labor of convicts regulated,	ib	Manner of keeping accounts, &c.	9
Hours of labor,	4	Keeper to report to inspector quarterly,	ib
Keeper and inspector to be elected annually,	5	Agent to settle accounts and deliver over to the keeper,	10
To take an oath,	ib	Keeper to direct the labor of convicts, and sale of manufactured articles,	
Keeper to give bond,	ib		
Manner of prosecuting on bond,	ib		
Vacancy to be filled by governor,	ib		

Proviso as to credit given for articles sold,	ib	Infirmary to be established;	25
Further proviso,	ib	Regulations thereof,	ib
Keeper to carry on the manufacture of fire arms in penitentiary,	ib	Sheriffs may demand assistance &c. when transporting convicts,	26
Keeper to employ a physician,	12	Fees for taking convicts who may escape,	27
Auditor to keep accounts of penitentiary, and report to General Assembly annually,	13	Spiritous liquors prohibited	28
Keeper to exhibit his books to auditor and inspector,	14	Penalty for default,	ib
Keeper to deposit cash with treasurer weekly,	15	Keeper to pay 50 dollars for each person who may escape,	29
Keeper to appoint deputy & guards	16	Convicts escaping and re-taken how dealt with,	30
Proviso as to number of guards,	ib	Convicts to be furnished a bible &c	31
Inspector to make rules and regulations for the government of the penitentiary,	17	Debts to be collected without stay of execution, &c.	32
Keeper may punish convicts for disorderly behavior,	ib	Solitary confinement regulated,	33
Keeper may admit strangers,	ib	Prison to be visited weekly by the inspector,	34
Inspector to give orders for admission,	ib	Inspector may report keeper to the Governor for misconduct,	ib
Keeper to collect or sue for all accounts in 6 months after contracted,	18	Governor may remove keeper, &c.	ib
Proviso as to contracting with Jos. Hines, &c. for making machinery	ib	Inspector may examine witnesses on suspicion of fraud in the keeper,	35
Manner of prosecuting and conducting suits on penitentiary accounts,	19	Provision as to the confinement of convicts not employed,	36
Keeper to call on officers for money when collected,	20	Proviso as to airing for health,	ib
Keeper to report to auditor annually,	21	Intercourse with convicts regulated	37
Style of process,	22	Old keeper to deliver over to his successor and take receipts for all buildings and property,	38
Governor, &c. may visit penitentiary at their discretion,	23	Materials to be appraised,	ib
Prison to be shut at 9 A. M.	ib	Duty of auditor to settle accounts of keeper when going out of office	ib
Regulations for promoting health &c	24	Keeper to receive criminals sentenced by authority of the U. States	39
		Repealing clause,	40
		Provision as to collection of debts,	ib
		&c.	ib

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio;* That any person sentenced to imprisonment agreeably to the provisions of the act for the punishment of crimes, shall within thirty days after his or her conviction, be transported at the expense of the state to the state prison by the sheriff of the county in which such conviction may be had, and there delivered into the custody of the keeper of said prison, together with a copy of the sentence of the court, ordering such imprisonment and the costs of prosecution, so far as relates to the fees of constables, justices, sheriffs, witnesses and clerks, certified under the hand and seal of the clerk of said court, attested by the presiding judge or one of the associate judges of the proper county, there to be safely

kept until the term of his or her confinement shall have expired, or until he or she shall be discharged by due course of law, for which service the said sheriff shall receive eight cents per mile going to, and six cents per mile returning from said prison, to be computed from the jail of the county in which the conviction took place, and the like sum for one guard for each prisoner, and the sum of one dollar and fifty cents for every twenty-five miles for transporting and sustaining each prisoner: *Provided*, That if at any term of the court, there should be more than one person convicted, it shall be the duty of the court to make an order directing the number of men for guards (not exceeding one to each convict) which in their opinion may be necessary for the safe transportation of such convicts; a certificate whereof shall be made out by the clerk under the seal of the court and delivered to the officer; and the officer shall deliver the certificate to the keeper who shall be governed thereby in making out his order for the transportation of such convicts: All of which sums shall be certified by the keeper and paid on his order by the treasurer of the state, out of any moneys in the treasury, not otherwise appropriated.

SEC. 2. *Be it further enacted*, That every person sentenced to hard labor and imprisonment as aforesaid, shall be washed, cleansed, and shall remain in separate lodgings until it shall be certified by a physician, that he or she may be safely admitted among the other prisoners; and the clothes which the said person may wear on his or her arrival at the prison shall either be burnt or carefully fumigated and put away, at the discretion of the keeper; and in case the said clothes be preserved, they shall be returned to the owner at the expiration of the term of his or her confinement.

SEC. 3. *Be it further enacted*, That all offenders committed as aforesaid shall during the term of his or her confinement, be clothed at the expense of the state in garments of coarse materials, uniform in color and in make, and suitable to their sex: and the males shall have the right side of their heads shaved close, at least once in every month, if it be deemed proper by the keeper: and all the said offenders, shall during the time of their confinement, be fed on coarse but wholesome food; and shall as far as may be consistent with their age, sex, health and ability (except as hereinafter excepted) be kept at hard labor, of those kinds in which the work is least liable to be spoiled, and the materials not easily embezzled or destroyed: it shall be lawful for the keeper, when in his opinion it may be necessary to employ

suitable persons to instruct the prisoners in the work in which they may be employed: and during the times of labor, and at all other times they shall be kept as separate from each other as the nature of their employments and the apartments of the prison will admit.

SEC. 4. *Be it further enacted,* That each convict shall (except as hereinafter excepted and unless prevented by ill health) be kept at work every day in the year Sundays excepted; and the hours of work shall be as many as the season of the year will permit: and when the labor of each day is finished, the tools and materials, or such of them as may be easily removed shall be taken to places of safety until the hour of labor shall return.

SEC. 5. *Be it further enacted,* That there shall be elected by joint ballot of the general assembly, a keeper and an inspector for the penitentiary, who shall be commissioned by the governor, and continue in office one year from and after their election and until their successors are elected and qualified; and before entering upon the duties of their offices they shall each take an oath well and faithfully to discharge the duties of their respective offices; and the said keeper shall before he enters upon the duties of his office, give bond in the sum of twenty thousand dollars, with security to be approved of by the auditor of state, payable to the treasurer of state, and conditioned that he, his deputies and assistants shall faithfully discharge the duties required of them by law; which bond shall be recorded in the office of the secretary of state, and a copy thereof certified by the said secretary, shall be good evidence in any court in any suit against such keeper or his securities; and said bond shall not be void on the first recovery but may be put in suit from time to time for a breach of the condition thereof: said keeper shall be notified of his appointment by the secretary of state; and if he shall refuse or neglect to give such bond within five days after such notification, the office shall be deemed vacant, and if the legislature shall not be in session the governor shall proceed to fill the same: the inspector shall also be notified of his appointment in the same manner, and in case of refusal or neglect to qualify himself within five days after his notification, his office shall be deemed vacant and shall be filled in the manner herein provided in the case of vacancy in the office of keeper: the keeper shall reside in the penitentiary, and occupy such part of the house as shall be designated by the inspector for that purpose.



SEC. 6. *Be it further enacted,* That the keeper shall receive a salary of one thousand dollars per annum, to be paid quarter yearly, upon the warrant of the auditor out of any money in the state treasury not otherwise appropriated; which salary shall be in full for his services and for clerk hire: and the inspector shall receive an annual salary of two hundred dollars to be paid as aforesaid.

SEC. 7. *Be it further enacted,* That it shall be the duty of the keeper, to make application in writing to the inspector at the commencement of each quarter of the year for such sum of money as he may deem necessary for the purchase of raw materials, clothing and other articles for the use of the penitentiary stating the probable amount that such articles will cost respectively, for which several sums the inspector may if in his opinion, the interest of the state require it, give an order to the keeper, authorizing him to purchase the said articles or such of them as he may think proper and necessary, which order shall give full power and authority to the said keeper to contract for and purchase upon the best terms for the state, all or any of the articles mentioned in said order: and upon the receipt of the keeper, to the person or persons, from whom any such article may have been purchased, being presented to the inspector, he shall file the same, and give an order for the amount thereof on the auditor of state who shall issue as in other cases his warrant on the treasury, and shall be paid out of any money in the treasury which may have been appropriated for the support of the Ohio penitentiary: *Provided,* That if the articles are to be purchased without the state, the inspector shall give an order on the auditor in favor of the keeper to the amount so to be purchased at the time of giving his assent to such purchase, which shall be drawn for and paid as aforesaid: *Provided,* That the keeper shall in all cases purchase materials the growth and manufacture of the state of Ohio, in preference to materials of foreign growth and manufacture, if the same can be had on as good terms and of as good quality: and he shall on the last day of each month make out, and within five days thereafter deposit with the inspector, a statement of every article purchased for the use of the penitentiary with the cost of the same, and also of all articles manufactured therein with the amount of the probable value of each of such articles.

SEC. 8. *Be it further enacted,* That the said keeper shall discharge the debts of the institution now contracted (if any

there be) taking receipts therefor, and shall purchase all raw materials, clothing and other articles necessary for the penitentiary, taking receipts therefor; which receipts shall in either case specify the price, quantity and quality of such articles so delivered, distinguishing the raw materials to be manufactured, from the articles otherwise necessary for the maintenance and use of the institution; the keeper shall deposit such receipts with the auditor of state, and take his receipt for the same, and in all cases where the keeper shall purchase any article for the use of the penitentiary, he shall take a receipt for the money or other article paid out, specifying the number, quantity and quality, and price of the article or articles purchased, and deposit said receipts in the auditor's office.

*Sec. 9. Be it further enacted,* That the keeper shall open a new set of books, in which he shall keep a fair, plain and regular account with the state, charging the same with all monies paid out on account of the institution, and crediting the same with all monies received out of the treasury; and he shall also keep a fair and regular account of all raw materials, clothing and other articles, procured by him for the use of the institution, and of the sales of manufactured articles; it shall also be the duty of the keeper to make out a fair abstract of all his accounts, including each item thereof, and report the same, together with the receipts and vouchers, to the inspector on the first Monday of March, June, September and on the fifteenth day of November, in each and every year, and also to make out an annual abstract of his account, including each item as aforesaid, on the fifteenth of November, and report the same to the General Assembly.

*Sec. 10. Be it further enacted,* That it shall be the duty of the agent of the penitentiary, so soon as the keeper shall be appointed, commissioned and qualified as aforesaid, to give the said keeper possession of the penitentiary, and all the manufactured articles then on hand, together with his account books, and the evidences of all debts due the state on account of goods sold by him, for which the said keeper shall receipt, and carry the same to the credit of the state, upon his books; and the auditor of state is hereby authorized and required to adjust and settle the accounts of the agent and director of the penitentiary, with the state; and if he shall find upon such settlement, that those officers are not indebted to the state, he shall give them certificates thereof, and upon the presentation of such certificates to the proper officer, the bonds given by them severally shall be cancelled.

**SEC. 11.** *Be it further enacted,* That it shall be the duty of the keeper of the penitentiary, to direct what articles shall be manufactured in said prison, the quantity and quality thereof, and to vend the same to the best advantage, either for money or in exchange for such other articles or raw materials as may be needed; and also to make contracts with merchants or others, for the sale of such articles, on a credit or otherwise, as in his opinion may best promote in the interest of the state: *Provided however,* That when said articles are to be sold by wholesale on a credit, it shall be his duty to limit the time of payment, which shall not exceed six months, and to judge of and accept the security: *Provided also,* That in directing what articles shall be manufactured as aforesaid, the keeper shall select such articles, that when the same shall be manufactured they shall exceed the value of the raw materials as far as the same may be practicable, and at least fifty per cent. on the first cost; and the keeper so soon as he shall deem it for the interest of the state, and the necessary preparations can be made, commence and carry on as far as practicable the manufacturing of gun barrels, gun locks and guns, of such kind and dimension as may be found most saleable; and if it should be ascertained that a greater quantity of these articles can be manufactured, than will meet with ready sale at a reasonable profit, he shall employ the surplus labor in the manufacturing of suitable rifle guns for arming, as far as practicable, the militia of this state.

**SEC. 12.** *Be it further enacted,* That the keeper shall have power to employ a skillful physician by the year, or for any less time, to attend upon the convicts in the penitentiary, when in his opinion it may be necessary: *Provided,* The compensation paid such physician for medicine and attendance shall not exceed in any one year, one hundred and fifty dollars.

**SEC. 13.** *Be it further enacted,* That the auditor shall open and keep a regular account with the keeper of the penitentiary, charging him with all money paid on account of the institution, and with all the raw materials and manufactured articles now on hand, together with the amount of the debts due the institution; and also, with all the tools and implements now in the penitentiary; and the auditor shall credit the keeper for all monies paid into the treasury, upon the said keeper furnishing to the auditor certificates thereof from the treasurer of state; and it shall be the further duty of the auditor to make out an abstract of all such accounts to the

fifteenth of November, and report the same to the General Assembly on the first Monday of December annually.

SEC. 14. *Be it further enacted*, That the books of the keeper shall be open at all times for the inspection of the auditor and inspector; and abstracts of the books certified by the auditor, shall be good evidence in any suit against the keeper.

SEC. 15. *Be it further enacted*, That the keeper shall each week deposit in the treasury the amount of cash received, on account of sales and of collections of debts during the preceding week, taking the treasurers receipt for such sum, and deposit the same with the auditor, who shall credit the keeper with such amount, as well as with all necessary costs and charges incurred by the keeper, which costs and charges shall be certified by the keeper, and the certificate thereof be filed in the auditors office.

SEC. 16. *Be it further enacted* That the keeper of the penitentiary shall appoint a deputy, and shall employ as many guards as he may deem necessary: *Provided*, The whole number, including himself, shall not amount to more than one guard to every fifteen convicts: *Provided further*, That the keeper, with the assent of the inspector, may make a temporary addition to the number of the guards, when danger is apprehended from any insurrection of the convicts, and the said deputy and guards shall receive such compensation as the inspector and keeper may deem just and reasonable; which shall be paid out of the treasury on the order of the keeper.

SEC. 17. *Be it further enacted*, That the inspector shall have power to make such rules and regulations for the government of the penitentiary, and for carrying the provisions of this act into effect, as he may deem necessary: *Provided*, Such rules and regulations be not inconsistent with the constitution and laws of this state; a copy of said rules and regulations shall be posted up in some conspicuous place in said prison, and the keeper shall have power to punish all such prisoners as may be guilty of disorderly or improper conduct, by confinement in the cells of the penitentiary, and by feeding them on bread and water, for any term not exceeding thirty days, and he shall have the same power as to the admission of strangers, that was vested in the inspectors of the penitentiary before the passage of this act: *Provided always*, That the inspectors shall at all times have admission into the penitentiary; and any person shall be admitted during proper hours, upon the order of the inspector.

SEC. 18. *Be it further enacted*, That the keeper shall permit no account of the penitentiary to remain open longer than six months, before he shall close the same, and institute suits thereon immediately after the expiration of six months, for all sums which may have been due for that length of time; and if the said keeper shall permit any open account to stand longer than seven months from the date of the first item, or any bond or note to stand longer than three months after it has become due, without bringing suit thereon, he shall be liable for the amount of the same, to be recovered by the auditor by suit on his bond aforesaid; and copies taken from the books of the keeper and certified by the auditor, shall be good evidence in any suit brought by the auditor against the keeper: *Provided however*, That it shall be lawful for the keeper of the penitentiary to contract with Joseph Hines and John M. Strain, to make for them in the penitentiary, and under their direction, three thousand dollars worth of machinery, and to allow them a credit of eighteen months to make payment therefor, on said Hines and Strain, giving bond with sufficient security, to be approved by the auditor and treasurer of state at the time of making the contract: *And provided also*, That said Hines and Strain shall furnish the raw materials for said machinery.

SEC. 19. *Be it further enacted*, That when it may become necessary for the keeper to commence suit upon any bond, note or book account, cognizable before a justice of the peace, it shall and may be lawful for any justice of the peace within the proper county, in whose hands the same may be placed for collection, to issue his summons directed to any constable of said county, commanding him to summon the defendant or defendants to appear before him, the said justice, within twelve days from the date of such summons; which said summons shall be served by the constable on the defendant, at least five days before the return day thereof, by reading in his presence and hearing, or leaving an attested copy thereof at his last place of residence in said county; and the justice shall proceed to try the same on the day the said summons is made returnable; and if upon the trial of said cause judgment shall be rendered for said keeper, in favor of the penitentiary, execution shall be, on the request of the keeper, immediately issue for the debt and costs as aforesaid recovered, unless the defendant shall, at the time of the rendition of the judgment, appeal the same, and give immediate security to prosecute his appeal to judgment, in the next court of common pleas, to be held in and for said

county: *Provided*, The justice may, for good cause shewn, adjourn the court agreeably to the provisions of the act, entitled An act defining the duties of justices of the peace in criminal and civil cases.

SEC. 20. *Be it further enacted*, That if the keeper shall suffer any officer who may collect any debt of the institution, to hold money so collected, longer than three months after he becomes liable for the payment thereof, without a suit against said officer, he shall become liable for the debt.

SEC. 21. *Be it further enacted*, That the keeper shall on the fifteenth day of November in each year, make a report to the auditor, in which he shall specially state the amount of manufactured articles then on hand, the amount of debts owing to the institution, specifying those by bond, note or book account, by whom owing, when contracted and when due; and if put out for collection, in what situation, and the amount of the officers fees he may have paid, and the amount of money he may have deposited in the treasury, from the time of his going into office, or from his former annual report; he shall also state in his report, the amount of manufactured articles first delivered to him, or on hand at his former annual report, the amount manufactured during the preceding quarters, and the amount of money he may have received for interest on debts, and the costs of suits since his former annual report; which said account shall be examined by the auditor and compared with his account against the keeper, and if found correct, the balance shall be struck on the books of the auditor and keeper.

SEC. 22. *Be it further enacted*, That in all suits on prosecutions in behalf of the penitentiary the style shall be "The Ohio Penitentiary."

SEC. 23. *Be it further enacted*, That the governor and other executive officers of state, and the members of the general assembly shall be admitted as visitors within the walls of the penitentiary, and such other persons as the inspector and keeper may think proper: and the doors of all the lodging rooms and cells in said prison shall be locked, and all lights extinguished at the hour of nine o'clock in the afternoon, and one or more guards shall patrol said prison at least twice in every hour, until the return of the hour of labor in the succeeding morning.

SEC. 24. *Be it further enacted*, That the walls of the cells and apartments in said prison shall be white washed with lime and water, once in every three months, or oftener if the inspector shall so direct by one or more of the prisoners,

and the said prisoners shall be allowed to walk and air themselves in the prison yard for such time as their health may require, and the keeper in his discretion shall permit: *Provided*, Such airing be in the presence or view of the keeper, his deputy or assistants.

SEC. 25. *Be it further enacted*, That one or more of the apartments in the penitentiary shall be prepared for an infirmary: and in case any prisoner being sick, shall on examination by a physician be found to require it, he or she shall be removed to the infirmary, and his or her name shall be entered in a book to be kept for that purpose; and when such physician shall report to the keeper that such prisoner is in a proper condition to be removed from the said infirmary, and return to his or her cell or employment, such report shall be entered in a book to be kept for that purpose, and the said keeper shall thereupon order him or her back to his or her former labor or cell so far as the same shall be consistent with his or her state of health.

SEC. 26. *Be it further enacted*, That the sheriffs of the several counties of this state during the time that they or any of them shall agreeably to this act be employed in conveying to the penitentiary any person or persons sentenced to hard labor or imprisonment as aforesaid, shall have the same power and authority to secure him, her or them in any jail in this state, and to demand the assistance of any sheriff or jailor or other person within this state in securing all such offenders as if such sheriff were in his own proper county; and all such sheriffs, jailors and other persons shall aid such sheriff or his deputy, under the same penalties as if the said sheriff were in his own proper county.

SEC. 27. *Be it further enacted*, That any constable or other person who shall take up and convey to the penitentiary, any offender who shall have escaped from confinement, shall be allowed mileage going to and returning from the penitentiary, at the rate of eight cents per mile, and such additional compensation as the keeper and inspector may deem reasonable, for the necessary expense incurred, to be paid by the treasurer of state on the order of the keeper.

SEC. 28. *Be it further enacted*, That if any keeper or other person, shall introduce into or give away, barter or sell within the penitentiary, any vinous, spiritous or fermented liquors, excepting only such as the keeper may make use of in his own family, or such as may be prescribed by the attending physician for a person in ill health and be delivered into the hands of such physician or other person appointed

to receive them: or shall introduce into, or give away, barter or sell any tobacco, snuff or segars within the penitentiary; every person so offending, shall forfeit and pay the sum of fifty dollars to be recovered by action of debt, before any court having competent jurisdiction thereof and to be applied to the use of the institution.

SEC. 29. *Be it further enacted,* That if any offender or offenders confined as aforesaid shall escape from such confinement by the negligence of said keeper, his deputy or guards, the said keeper shall forfeit and pay for every such escape, the sum of fifty dollars to be recovered and applied as herein before provided; but nothing in this section contained shall be taken as extending to escapes voluntarily suffered by the said keeper his deputy or guards.

SEC. 30. *Be it further enacted,* That if any prisoner sentenced to hard labor as aforesaid shall escape, he or she on being apprehended and returned to said prison, shall suffer such additional punishment at hard labor or solitary confinement agreeably to the provisions of this act, as the keeper and inspector shall adjudge and direct: *Provided.* That such additional punishment at hard labor or solitary confinement shall not exceed the term of six months over and above the time that such prisoner was absent by means of such escape: nor shall it exceed twelve months over and above the time that such prisoner was liable to be kept in the penitentiary, at the time of his or her escape.

SEC. 31. *Be it further enacted,* That the keeper shall furnish each convict with a Bible of the common kind to be paid for out of the state treasury: and shall permit as often as he may think proper, regular ministers of the gospel to preach to such convicts.

SEC. 32. *Be it further enacted,* That all debts contracted after the passage of this act with the keeper of the penitentiary, for the use of the institution; and all penalties which shall accrue under the provisions of this act shall be collected without the stay of execution or valuation of property,

SEC. 33. *Be it further enacted,* That every person sentenced to imprisonment or hard labor, as aforesaid shall be placed and kept in the solitary cells of the penitentiary on low and coarse diet for such part or portion of the time of his or her confinement as the court before whom such conviction may be had, shall in their sentence direct and appoint; and the keeper shall have power to direct the infliction of such solitary confinement at such intervals and in such manner as he may judge proper.



SEC. 34. *Be it further enacted,* That the inspector shall visit the penitentiary at least once in each week and make himself acquainted with its general state and concerns, he shall at all such times examine the books and accounts of the institution, and shall also examine into the conduct of the keeper, under keepers, assistants and guards, and if he shall at any time find that any of the provisions of this act are disregarded, or not carried into full force and effect, he shall make the same known to the keeper; and if the keeper shall disregard the notice thus given him for the space of one week, the inspector shall make complaint against him to the governor, and the governor shall, if the nature of the case shall in his opinion require it, remove the keeper and appoint another in his stead.

SEC. 35. *Be it further enacted,* That if the said inspector shall at any time, suspect any fraudulent or improper charges in the accounts of the keeper, or any omission in any such accounts he may examine, upon oath or affirmation the said keeper or his clerk or deputy, or any of his assistants, or servants or any persons of whom any necessaries, stock, materials or other things have been purchased for the use of the said prison; or any persons to whom any stock or materials wrought or manufactured therein have been sold, or any person or persons other than those confined in such prison concerning, any of the articles contained in such accounts or any omission thereout.

SEC. 36. *Be it further enacted,* That such of the prisoners confined or that may be confined in the penitentiary as shall not be kept at hard labor shall be imprisoned in separate apartments; or if the situation or plan of the buildings will not admit of solitary confinement in all cases, those prisoners shall be kept together, whose offences bear the nearest approach to the same grade of criminality, and who manifest the least disposition towards repentance or reform: *Provided, however,* That if such solitary confinement shall be injurious to the health of any prisoner, such prisoner shall be permitted to air himself or herself in the prison yard under the view of the keeper or his assistants as herein before provided.

SEC. 37. *Be it further enacted,* That no prisoner confined in the penitentiary shall receive or transmit any letter or paper except in the presence and under the inspection of the keeper, and the keeper shall not permit any prisoner to hold any correspondence with any person out of the prison or with any visitor in the prison, unless such prisoner

shall entitle himself or herself to such indulgence, by his or her good conduct; nor shall any prisoner have the privilege of conversing with any person whatever except with the governor, the heads of departments, the members of the general assembly, the judges of the supreme court and courts of common pleas, the inspector, or the assistants in the penitentiary, unless in the presence of the keeper.

SEC. 38. *Be it further enacted,* That in every case in which a new keeper for the penitentiary shall be appointed, the keeper whose term of office has expired, shall deliver over to his successor quiet and peaceable possession of the penitentiary buildings with all the property of the state in his possession, together with the prisoners, and it shall be the duty of such new keeper to give to his predecessor a receipt for said prisoners and for the property aforesaid; and such part of said property as may consist of raw materials and manufactured articles shall be appraised and valued by the inspector and be received by the new keeper at such appraisal and valuation, and the auditor of state is hereby authorized and required to settle the accounts of such keeper whose time may have expired as aforesaid allowing him for the cost of such raw material together with the appraised value of the manufactured articles then on hand and if upon such settlement, the auditor shall find that the said keeper has well and truly performed the duties required of him by law and that he does not remain indebted to the state, he shall give the said keeper a certificate thereof; and upon the exhibition of such certificate to the secretary of state, he shall cancel the bond given by such keeper, which certificate shall be filed in the office of the secretary of state.

SEC. 39. *Be it further enacted,* That the keeper of the penitentiary is hereby authorized and required to receive all criminals committed to his custody by the authority of the United States, and to keep them safely at hard labor or in solitary confinement, agreeably to the order of the court pronouncing the sentence, until discharged by the due course of the laws of the same: *Provided,* That every prisoner that shall be committed for any offence by the authority of the United States, shall be supported at the expense of the same during his or her confinement in said penitentiary, and the keeper shall certify the expense of each and every convict committed to his care, under the provisions of this section, as is required of sheriffs by the act, entitled "An act for the confinement of prisoners under the authority of the United States in the jails of this state"

**SEC. 40.** *And be it further enacted, That the act, entitled "An act making provision for carrying into effect the act for the punishment of crimes," passed January twenty-ninth, eighteen hundred and twenty-one, be and the same is hereby repealed: Provided however, That all debts contracted and judgments rendered in favor of said institution, shall be collected in the same manner as is directed by said act.*

**JOHN BIGGER,**

*Speaker of the house of representatives.*

**ALLEN TRIMBLE,**

*Speaker of the Senate.*

February 2, 1822.

## CHAPTER XXII.

**AN ACT,** to amend an act, entitled "*An act, for the safe keeping of idiots, lunatics and insane persons, the protection of their property and for other purposes,*" passed January fourth, eighteen hundred and twenty; and requiring certain duties of township listers.

Applicant to pay costs when he fails to prove the person an idiot, &c.	1	and dumb person, whether minors or not,	4
Justice to compel applicant to give security for cost,	ib	Power and duty of guardian,	ib
Applicant to give ten days notice to guardian of idiot before hearing of application,	2	County commissioners may appropriate funds to the education of deaf and dumb persons when parents are unable,	5
Appeal allowed to court from proceedings of justice and inquest,	3	Township listers to list all deaf and dumb persons in their township,	6
Proceedings on appeal,	ib	County auditors to report the number &c. of deaf and dumb in each county to the auditor of state by 1st August next.	ib
Court to appoint guardian,	ib		
Power and duty of guardian,	ib		
Court to appoint guardians to deaf			

**SEC. 1.** *Be it enacted by the General Assembly of the state of Ohio, That whenever the relations of any person alledged to be an idiot, lunatic or insane person, or where any other person shall make application to any justice of the peace, according to the provisions of the first and ninth sections of an act, entitled An act for the safe keeping of idiots lunatics and insane persons, the protection of their property, and for other purposes, passed January fourth eighteen hundred and twenty, and when such application shall not succeed, the person or persons making such application shall be liable for*

all costs which may accrue, in the prosecution of such application, and the justice to whom such application shall be made as aforesaid, shall in all cases compel such applicant or applicants to give security for costs as in other cases.

SEC. 2. *Be it further enacted,* That whenever any person or persons, other than the guardian of any idiot, lunatic or insane person shall make application to any justice of the peace, according to the provisions of the ninth section of the act to which this is an amendment, such applicant or applicants shall give notice of such application to the guardian or guardians of such idiot, lunatic or insane person, by serving a copy of such application on said guardian or guardians, or by leaving a true copy thereof at the residence of such guardian or guardians, at least ten days before the hearing of such application.

SEC. 3. *Be it further enacted,* That an appeal shall be allowed to the court of common pleas of the proper county, from all inquests had agreeably to the provisions of the first and ninth sections of the act to which this is an amendment, which appeal shall be subject to the same rules as appeals from the judgments of justices of the peace in other cases; and whenever an appeal shall be taken on behalf of any person or persons, alleged to be idiot, lunatic or insane, such appeal shall be perfected by the next friend of such person, or by the person or persons making application on behalf of such person as the case may be, and in all cases whereby the inquest of a jury according to the provisions of the act to which this is an amendment, any person shall be found to be idiot, lunatic or insane, and an appeal shall be taken as aforesaid, to the court of common pleas, the court shall appoint a guardian or guardians, at the term to which said appeal is taken, in the same manner as provided in and by the act to which this is an amendment, which guardian shall have the same power, pending the appeal over the person and estate of the idiot, lunatic or insane person, as is given by the act to which this is an amendment, and said court after the trial of said appeal, shall call upon said guardian to account, and appoint a new guardian as the case may require, in the same manner as provided by the act to which this is an amendment.

SEC. 4. *Be it further enacted,* That the court of common pleas in the several counties in this state, shall have power to appoint guardians to all such deaf and dumb persons, whether they be minors or of full age, as may be incapable to take care of or manage their estates, and shall require of any guar-

dian or guardians, thus appointed, such bond and security as is by law required in case of minors, and the power of the guardian or guardians thus appointed, over the person of such deaf and dumb person, shall extend to protection, education and maintenance; and over the property shall be the same as in other cases of guardian and ward.

SEC. 5. *Be it further enacted,* That the parent or guardian of any deaf and dumb person, if such person be a minor, and if such parent or guardian be unable to teach such deaf and dumb to read and write, may make application to the commissioners of the proper county, for such aid in money as will be sufficient to procure instruction for such deaf and dumb person as aforesaid; and if the commissioners shall find by evidence satisfactory to them, that such parent or guardian is unable to instruct such deaf and dumb person as aforesaid, they shall in such case have power and authority to make such appropriation of money, from the treasury of the county, as they may deem proper, which money shall be paid by the county treasurer, upon the order of the county auditor.

SEC. 6. *And be it further enacted,* That the listers of the several townships in each county in this state are hereby required, at the time of taking the taxable property of such township, to take a list of all deaf and dumb persons in their respective townships, designating the place of their residence, together with their age, sex and circumstances as near as practicable, and to return the said list to the county auditor with the duplicate of taxable property; and it shall be the duty of the county auditor in each and every county of this state, to make out a list of all deaf and dumb persons so found within the county, from the returns of the listers; and transmit the same to the auditor of state, on or before the first Monday of August next.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 2, 1822.

## CHAPTER XXIII.

*AN ACT, regulating the compensation of associate judges, and certain other officers therein named.*

Compensation of associate judges, 1	Supervisors of highways 75 cents
Compensation of county auditor, 2	per day, <i>ib</i>
Fees of grand jurors, 4	Overseers of the poor and township
County treasurer allowed 3 per	trustees, each 50 cents per day, <i>ib</i>
cent. 5	Proviso, <i>ib</i>
Viewers of roads 75 cents per day, 6	Township trustees not to levy
Surveyors of roads 150 cents per	township tax, <i>ib</i>
day; <i>ib</i>	Repealing clause, 7
	Commencement, <i>ib</i>

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That each associate judge of the court of common pleas, in the several counties in this state, shall receive for his services two dollars for each day he shall attend courts, including the time employed in travelling to and returning from courts, which shall be paid out of the treasury of the proper county, upon the order of the county auditor.

SEC. 2. *Be it further enacted,* That each county auditor shall receive such compensation, as shall be allowed him by the county commissioners, to be paid out of the county treasury, upon the certificate of such commissioners.

SEC. 3. *Be it further enacted,* That each county commissioner shall be allowed one dollar and fifty cents per day for his services, to be paid out of the county treasury, upon the order of the county auditor.

SEC. 4. *Be it further enacted,* That each grand juror shall be allowed for his services seventy-five cents per day, to be paid out of the proper county treasury, upon the order of the county auditor.

SEC. 5. *Be it further enacted,* That each county treasurer shall be allowed three per centum on all monies by him received and accounted for.

SEC. 6. *Be it further enacted,* That the following officers may be entitled to receive for their services the sums herein after mentioned, and no more, to wit: viewers of public roads, each, seventy-five cents per day; each surveyor, for surveying public roads, one dollar and fifty cents per day, to be allowed by the county commissioners and paid out of the county treasury, upon the order of the county auditor; each supervisor of highways, for the time employed by him over and above two days, in warning hands and attending to the various duties of his office, seventy-five cents per day, which

may be applied to the discharge of any road tax or labor on highways; trustees of townships and overseers of the poor, for the time actually employed by them in the discharge of their various duties, each, fifty cents per day, to be paid out of their respective township treasuries: *Provided*, That the compensation to the township officers herein enumerated, shall not be allowed, unless the same can be paid without levying a tax on the citizens of such township; which the trustees shall in no case levy or cause to be collected for township expenses, except for the support of the poor; any thing in any law to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That so much of the seventh section of the act, entitled "An act regulating elections," as allows a compensation to the judges and clerks of elections, together with all other acts and parts of acts that may come within the purview or provisions of this act, be and the same are hereby repealed.

This act shall take effect and be in force from and after the first day of March next.

JOHN BIGGER,  
*Speaker of the house of representatives.*  
ALLEN TRIMBLE,  
*Speaker of the senate.*

January 8, 1822.

## CHAPTER XXIV.

*AN ACT, supplementary to the act entitled "An act regulating the duties of County Auditors and County Commissioners.*

Duty of county commissioners generally	1	{	Provision when county auditor elected has been collector and not settled up	4
Proviso as to filling vacancy in the office of county auditor	ib		No county collector to be re-appointed until he has settled up his duplicate	5
Proceeding in case of contesting election of county auditor	2			
Commissioners to take bond from county auditor	3			

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio*, That it shall be the duty of the county commissioners in their respective counties to fix the compensation to be allowed to the collectors of the state and county tax agreeably to the laws on that subject; to audit and allow the accounts of township listers, viewers and surveyors of roads

markers and chain carriers; to set off new townships, and alter the bounds of old ones; to audit the accounts of the county auditor, at their stated meetings, and to do and perform all the duties required of them by the act entitled "An act to authorize the establishment of poor houses," and the act entitled "An act for the relief of idiots who are in helpless and indigent circumstances," and also to make the appointment of appraisers of school lands where not otherwise provided for by law: *Provided*, That when a vacancy shall happen in the office of county auditor, the commissioners are hereby authorized to call a meeting for the purpose of filling such vacancy.

SEC. 2. *Be it further enacted*, That if the election of any county auditor shall be contested, the same shall be conducted and decided in the same manner, as is directed in the case of contested elections of sheriffs or coroners.

SEC. 3. *Be it further enacted*, That the commissioners of each county in addition to the duties enjoined upon them by the act entitled "An act regulating the duties of county auditors and county commissioners," passed February second 1821, shall receive from the auditor of such county the bond which such auditor is required to give agreeably to the fifth section of "An act levying a tax on land," passed the eighth day of February 1820.

SEC. 4. *Be it further enacted*, That if any person who before his election, as county auditor, has been a collector of taxes, and who at the time of his election, may be indebted to the state, or any county for any of the taxes which he was bound to collect and pay over, shall not twenty days previous to the time provided by law for the commencement of the duties of his office as county auditor, produce to the commissioners of the proper county, satisfactory receipts signed by the proper authority for the full payment of all taxes with the collection and payment of which he was charged, the commissioners of the proper county shall consider the office of such person vacant and proceed to fill the vacancy according to the provisions of this act.

SEC. 5. *Be it further enacted*, That no collector of state or county tax, shall be appointed a second time, unless he produce to the commissioners of the proper county a receipt that he has settled his collections for the preceding year.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 2, 1822.



## CHAPTER XXV.

*AN ACT, to amend the act for the punishment of certain offences therein specified, and the act supplementary thereto.*

Persons stealing under 50 dolls. to be fined \$200 or imprisoned in a dungeon and fed on bread and water 3 months,	1	{	Penalty on constables for neglect in small criminal cases,	3
Sheriffs allowed 12 1-2 cents per day for sustenance,	ib	{	Constable for neglect to forfeit his office,	4
Duty of constables in serving war- rants in criminal cases,	2	{	Constable and his securities liable for fines on his conviction of neg- lect of duty,	5
Penalty for neglect,	ib	{	Repealing clause,	6
		{	Proviso,	ib

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That if any person shall steal any money or other goods and chattels, of any kind whatever, of less value than fifty dollars, the property of another, or shall steal or maliciously destroy any bank bill, promissory note, bill of exchange, order, warrant, draft, check or bond, given for the payment of any sum under fifty dollars, the property of another, every person so offending shall, on conviction thereof, be fined in any sum not exceeding two hundred dollars or shall be imprisoned in the county jail in a dungeon or cells thereof, if such jail contains either, and shall be fed on bread and water only, during his or her confinement, for any time not exceeding three months or both, at the discretion of the court; the sheriff shall receive twelve and a half cents only per day, for thus subsisting the prisoners on bread and water.

SEC. 2. *Be it further enacted,* That when any warrant, legally issued by any magistrate in this state, in any criminal case, shall be delivered into the hands of any constable to be executed, whose duty it shall be to execute such warrant, it is hereby made the duty of such constable to serve the same immediately; and if such constable shall neglect or delay to serve any such warrant, delivered to him as aforesaid, when in his power to serve the same, either alone or by calling upon assistants according to law, such constable shall, if the offence charged for which the warrant issued, be punishable with death or imprisonment in the penitentiary of this state upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or imprisoned in the county jail six months or both, at the discretion of the court.

SEC. 3. *Be it further enacted,* That if any constable shall be guilty, as specified in the preceding section, of neglect or delay, in serving any warrant, when the offence charged for

which such warrant may issue, be an offence not punishable by death or imprisonment in the penitentiary, such constable shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars, or imprisonment not exceeding two months or both, at the discretion of the court.

SEC. 4. *Be it further enacted*, That a conviction of either of the offences specified in the second and third sections of this act, shall be a forfeiture of the office of constable, and the same shall thereby become immediately vacant.

SEC. 5. *Be it further enacted*, That if any constable, convicted and fined under the provisions of this act, shall be unable to pay the fine assessed, the bail of such constable shall be liable upon their bond to pay the same.

SEC. 6. *And be it further enacted*, That the third section of the act entitled an act for the punishment of certain offences therein specified, passed the eleventh day of February, eighteen hundred and fifteen, and the first, fifteenth and sixteenth sections of the act, entitled An act supplementary to the act for the punishment of certain offences therein named, passed the second day of February, eighteen hundred and twenty-one, be and the same are hereby repealed: *Provided nevertheless*, That all offences committed prior to the taking effect of this act, shall be prosecuted and punished in the same manner as if this act had never been passed.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate*

February 2, 1822.

## CHAPTER XXVI.

### *AN ACT, levying a tax on land and for other purposes.*

Rates of taxation	1	County Auditor to prepare duplicates of land tax by first August annually	6
\$7146 21 cents Virginia Military School fund loaned to the state for one year	2	Duty of collector in collecting and paying over land tax	13
Money deposited to redeem land sold for taxes appropriated for state purposes.	3	Lands not paid for by first January to be returned delinquent	13
Audited bills to bear interest at six per cent	4	County Commissioners to appoint Collector at their June session	7
Auditor to issue small orders or bills when required	5	Repealing clause	8
Duty of the treasurer in redeeming bills	13		

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That there shall be levied and paid for the year one thousand eight hundred and twenty two, on each hundred acres of first rate land one dollar and fifty cents, on each hundred acres of second rate land one dollar and twelve and an half cents, on each hundred acres of third rate land seventy-five cents, and in the same proportion for a greater or less number of acres.

SEC. 2. *Be it further enacted,* That the money arising from the Virginia Military School lands, viz: five thousand three hundred dollars, the principal and interest of the amount applied to the use of the state by the second section of the act "authorizing a loan for the use of the state," passed February twenty-first one thousand eight hundred and twenty-one, and one thousand eight hundred forty-six dollars twenty-one cents, the amount paid into the treasury since third December eighteen hundred and twenty-one, equal to seven thousand one hundred and forty-six dollars and twenty-one cents, be and the same is hereby loaned to the state for one year ending on the second day of February, eighteen hundred and twenty three, at the rate of six per centum per annum.

SEC. 3. *Be it further enacted,* That all monies which have been received into the treasury, under the provisions, of the several acts, directing the mode of redeeming lands sold for taxes, and not paid out under the provisions of the same; shall be paid out for state purposes as other monies are paid: and all claims legally presented to the state auditor under the provisions of said acts, shall be by him allowed, and paid out of the contingent fund, appropriated for the office of the said auditor of state.

SEC. 4. *Be it further enacted,* That all bills or orders drawn hereafter by the auditor of state, on the treasurer, for any debt or debts due by the state, shall bear interest at the rate of six per centum per annum, from the date until redeemed at the treasury, and that all bills heretofore issued as aforesaid, shall bear a like interest from and after the passage of this act.

SEC. 5. *Be it further enacted,* That it shall be the duty of the auditor of state to draw bills on the treasury when requested, for ten dollars, twenty dollars or for any fraction between them adding such fraction to ten dollars, or for the whole amount which appears due to the person entitled thereto, but for any sum under ten dollars he shall draw a bill for the whole amount, any thing in the third section of

the act entitled "An act defining the duties of the auditor and treasurer of state," to the contrary notwithstanding, and it shall be the duty of the treasurer at the time of redeeming any bill to endorse thereon the time of redemption and the amount of interest paid, and to keep an interest account, it shall also be the duty of the treasurer whenever there shall be funds in the treasury for that purpose, to give notice in such newspaper as he may deem proper, to all persons holding bills drawn by the auditor of state on the treasury, that he is ready to redeem the same and that the interest on all bills which may have been drawn on the treasury as aforesaid, shall at the expiration of thirty days after the date of such notice cease and determine.

SEC. 6. *Be it further enacted,* That it shall be the duty of the county auditors respectively on or before the first day of August in every year to prepare a duplicate according to the provisions of the eighth section of an act entitled "An act to amend the act entitled an act levying a tax on land," passed the second day of February, eighteen hundred and twenty-one, and it shall be the duty of the county collectors respectively according to the provisions of the tenth section of the above recited act, to call upon the county auditor for a copy of the tax duplicate of his proper county, and after receiving such duplicate and previous to the first day of December in each year, shall proceed to collect taxes according to the provisions of the above mentioned tenth section, and from the first to the thirty-first day of December in each year, he shall attend at the seat of justice in his proper county; shall settle with the county auditor on the first day of January in each year, return delinquent all lands on which the taxes have not been paid at the time of such settlement, shall pay over to the treasurer of state all monies by him collected on or before the fifteenth day of January in each year, and in every other respect be governed by the provisions of the eleventh section of the last mentioned act.

SEC. 7. *Be it further enacted,* That the county commissioners of each county at their June session annually, shall appoint a collector for said county, who shall in every respect qualify himself according to the provisions of the twenty-third section of an act, entitled "An act levying a tax on land," passed the eighth day of February, eighteen hundred and twenty.

SEC. 8. *Be it further enacted*, That the provisions of any act or parts of acts contrary to the provisions of this act, be and the same are hereby repealed.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 2, 1822.

## CHAPTER XXVII.

*AN ACT, making appropriations for the year eighteen hundred and twenty-two.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio*, That the following sums be and the same are hereby appropriated, and shall be paid out of the treasury, on the order of the auditor of state, to defray the expenses of the government for the year one thousand eight hundred and twenty-two, to wit: For the payment of the salaries of the governor, secretary of state, auditor of state, chief clerk in the auditor's office, state treasurer, judges of the supreme court, and presidents of the courts of common pleas, a sum not exceeding eighteen thousand six hundred dollars; for the payment of the general assembly, including their clerks and door keepers, in addition to the sum of ten thousand dollars already appropriated for that purpose, a sum not exceeding ten thousand dollars; to the public printer, for printing bills, journals, resolutions and laws, enacted and passed during the present session of the general assembly, and for other extra printing, the amount of his account according to contract, a sum not exceeding three thousand dollars; for defraying the expenses of the penitentiary, including the transportation of convicts, in addition to the sum of two thousand dollars already appropriated, a sum not exceeding ten thousand dollars; for the auditor of state, to enable him to refund money where the taxes on land have been twice or improperly charged and paid, a sum not exceeding one thousand five hundred dollars; for the payment of the adjutant and quarter-master generals, brigade inspectors and adjutants, the several sums allowed them by law, a sum not exceeding fifteen hundred dollars; for paper and other stationary for the use of the general assembly, a sum not exceeding three thousand dollars; for fuel for the general assembly, a sum not exceeding three hundred dollars, to be

paid on the order of the auditor and secretary of state, and an account of the disbursement thereof shall be made to the next general assembly; for the purpose of enabling the auditor to procure copies of entries from the registers of land offices, and from the principal surveyor of the Virginia Military district, a sum not exceeding three hundred dollars, the disbursement thereof to be reported to the next general assembly; for contingent fund, subject to the order of the governor, a sum not exceeding two thousand dollars, who shall make report of the disbursement thereof to the next general assembly; for contingent fund, subject to the order of the auditor of public accounts, for the purpose of paying for books, clerk hire and stationary, for the use of his office, and for the payment of postages on letters and packets addressed to him as auditor of state, on the business of his office, a sum not exceeding one thousand five hundred dollars, and a report shewing the items of expenditure in applying the same, shall be made to the next general assembly; for the purchase of books and stationary, for the use of the state treasurer's office, an account of the disbursements of which shall be made to the next general assembly, a sum not exceeding sixty dollars; for the librarian, the sum of two dollars per day during the present session of the general assembly; to Joel Buttles the amount of his account for stove, pipe, &c. for the house of representatives, seventy-four dollars and forty-three cents; to A. and S. Ives, their account for candles for the use of the general assembly, fifty one dollars thirty-one cents; to John Kilbourn, his account for stationary for the use of the general assembly, seven dollars; for the purpose of paying the bounty allowed on wolf scalps, according to the act passed for that purpose, a sum not exceeding four thousand five hundred dollars; to John Blackburn, for services rendered as clerk of a regiment in the late war, the sum of fourteen dollars; to John Lidey for his expenses as collector of Perry county, for travelling to the seat of government, the sum of seven dollars and thirty-six cents; to Lynds Jones for attendance on a sick convict on his way to the penitentiary, the sum of fifteen dollars and sixty-two cents, the three last mentioned items having been allowed by a joint resolution of the general assembly, on the report of the committee of claims; to Thomas Johnson, for binding books for the library, on the certificate of the librarian, the sum of six dollars; to Amos Ellis, for his servicess as clerk to a regiment in the late war, the sum of sixty-eight dollars, as allowed by the committee of claims; for the purpose of pay-

ing postages on letters addressed to the speaker of the senate and house of representatives, during the present session, a sum not exceeding fifteen dollars; to Benjamin Pike doorkeeper, the amount of his account for sundry services rendered, the sum of twelve dollars and fifty cents; to Horace Wolcott, the amount of his account for articles furnished and services rendered for the present legislature, sixteen dollars and eighty-seven cents; to Francis Stewart, the amount of his account for six and one half pounds of rope attached to the bell suspended in the cupola of the state house, one dollar sixty-two and a half cents; to Robert M'Bratney, for setting eight lights of glass in the state house, two dollars; to D. W. Deshler, for two foot stoves, box for plate stove, lock and repairing door to committee room and mending desk, the amount of his account, seven dollars and fifty cents; to P. H. Olmsted, four dollars, the amount of his account for printing two quires of blank receipts for the use of the library; to T. and E. W. Gwynne and co. the sum of eighteen dollars forty-seven and three fourths cents, for articles furnished the present general assembly, as allowed by the joint committee of claims; that the sum of twelve dollars and twenty-five cents be allowed Joel Buttles, for articles furnished the state as per his account, up to the fifteenth January, eighteen hundred and twenty-two; to Peter Allen, for his services and expenses in transporting William Watkins, (who was charged with burglary) from Vincennes in the state of Indiana, to Huron county, by order of the governor of Ohio, one hundred and ninety-six dollars and sixty cents.

SEC. 2. *Be it further enacted*, That a sum not exceeding four hundred dollars, be and the same is hereby appropriated for the purpose of redeeming certificates of wolf scalps, which scalps were taken from wolves killed prior to the repeal of the act encouraging the killing of wolves: *Provided*, That the fact of such killing, previously to the repeal of said act, appear upon said certificates.

SEC. 3. *Be it further enacted*, That the sum of fifty-four dollars, be and the same is hereby appropriated to the payment of the claim of Orrin Jerome, for services and expenses upon the spire of the state house, as allowed by the joint committee of claims; and to Peter Grubb, the sum of one dollar for putting glass in the windows of the state house.

SEC. 4. *Be it further enacted*, That a sum not exceeding thirty dollars, be and the same is hereby appropriated to pay for extra clerk hire, as authorized by a resolution of the house of representatives, to be paid on the certificate of the clerk of the house of representatives.

*Sec. 5. Be it further enacted, That there shall be appropriated out of the three per cent. fund, two hundred dollars for the payment of Horace Wolcott, agreeably to the act passed February first, eighteen hundred and twenty-one, for the relief of said Wolcott, and to be deducted out of the next appropriation for the county of Franklin.*

*SEC. . And be it further enacted, That a sum not exceeding two hundred and fifty dollars, be and the same is hereby appropriated to pay Jarvis Pike, for folding and stitching the laws and journals of the present session, which allowance shall not exceed eight cents per hundred sheets of sixteen pages each, for folding stitching and furnishing all materials, to be settled by the secretary, auditor and treasurer of state and paid out of the treasury on the order of the auditor.*

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 2, 1822.

## CHAPTER XXVIII.

*AN ACT, to amend the act entitled "An act for a more speedy and equitable collection of debts, where Banks and Bankers are parties.*

### Preamble

Duty of sheriffs in selling lands on execution which have been mortgaged to banks

Lands to sell for two thirds of the sum found due on the mortgage deed

Duty of officer in selling lands where more than one tract is included in a deed of Mortgage

Sheriffs or other officer to make deed to purchaser

<p>1</p> <p>2</p> <p>3</p>	<p>4</p> <p><i>ib</i></p> <p><i>ib</i></p> <p><i>ib</i></p> <p><i>ib</i></p> <p><i>ib</i></p>
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Whereas doubts have arisen in the construction of the third section of the act entitled "An act to provide for a more speedy and equitable collection of debts where banks and bankers are parties," passed February second, 1821, whether the lands levied on by the provisions of said act should be appraised and sold for two thirds of the appraised



value of said lands, or whether they should be sold for two thirds of the amount found due on the mortgage or deed of trust by the inquest appointed by virtue of said third section of said act. Therefore,

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That when any lands, tenements or hereditaments held by any bank or bankers, body politic or corporate by deed of trust or mortgage deed of conveyance heretofore have been or hereafter may be levied on by virtue of the provisions of the act to which this is an amendment, or whenever lands, tenements or hereditaments held by any person or persons by deed of trust or mortgage deed of conveyance in trust, and for the use of such bank or bankers, body corporate or politic, whether the trust be expressed in the deed or not, heretofore have been or hereafter may be levied on by virtue of the provisions of said act, it is hereby made the duty of the officer to whom a writ or writs of venditioni exponas may be directed, where the amount due on such deed of trust or mortgage deed of conveyance, has been ascertained agreeably to the provisions of said third section of said act, after having advertised and made known the time and place of sale in the manner pointed out for the sale of real estate upon execution to, proceed and sell said property so levied on as aforesaid, for not less than two thirds of the amount that has been found due in such deed of trust or mortgage deed of conveyance, and where any such lands, tenements or hereditaments have been levied upon in manner aforesaid, and the amount due on the deed of trust or mortgage deed of conveyance has not been ascertained, or where any such lands, tenements or hereditaments hereafter may be levied upon by virtue of the provisions of the act aforesaid, it is hereby made the duty of the officer to whom execution is directed, to ascertain the amount due on the deed of trust or mortgage deed of conveyance in the manner pointed out by the third section of the act aforesaid, and after having advertised and made known the time and place of sale in manner aforesaid to proceed and sell the same for not less than two thirds of the amount found due on the deed of trust or mortgage deed of conveyance.

SEC. 2. *Be it further enacted,* That where more than one tract of land is included in the deed of trust or mortgage deed of conveyance, it is hereby made the duty of the officer to whom any writ or writs of execution may be directed, after having ascertained the amount due on such deed of trust or mortgage deed of conveyance in the manner point-

Ad out by the third section of the act to which this is an amendment, or when the amount due has been heretofore ascertained, to summon an inquest of five judicious and disinterested men of his county, whose duty it shall be to appraise under oath each tract of land contained in said deed of trust or mortgage deed of conveyance separately, and to report the same in writing to the said officer by whom they were summoned, whose duty it shall be to apportion the amount found due on such deed of trust or mortgage deed of conveyance, among the several tracts of land specified in such deed of trust or mortgage deed of conveyance, in just proportion to their appraised value, and after having advertised and made known the time and place of sale in manner aforesaid, to proceed and sell each tract of land contained in such deed of trust or mortgage deed of conveyance separately, for nor less than two thirds of the amount apportioned to the same in manner aforesaid, and each of the tracts of land so sold as aforesaid, shall be liable to be redeemed by the grantor, in the deed of trust or mortgage deed of conveyance, by the payment of the amount apportioned to the same in manner aforesaid, to the purchaser in the same manner as if the tract had been separately mortgaged or conveyed by deed of trust, and the purchaser in like manner shall hold the same in the same manner as if separately granted in manner as aforesaid.

Sec. 3. *Be it further enacted*, That when any sale is made by virtue of this act or of the act to which this is an amendment, it shall be the duty of the officer to make the deed to the purchaser in the manner pointed out by the provision of the act aforesaid, and all the remedies, rights and privileges given to the purchaser or purchasers by virtue of the provisions of the act aforesaid, are conferred upon him, her or them when the purchase is made by virtue of the provisions of this amendment of said act.

SEC. 4. *Be it further enacted*, That the court from which the execution or executions issued shall make such allowance to the inquest appointed by said act for their services as to them may seem right, and if any person being summoned to appear before the inquest to ascertain the amount due on the deed of trust or mortgage deed of conveyance, shall refuse to appear or refuse to give testimony before said inquest, it shall be the duty of the inquest to report such person to the next court of common pleas, who are hereby required to punish such person or persons refusing to appear or to give testimony, in the same manner

that witnesses are punishable in court for like offences, and it is hereby made the duty of the clerk of the court of common pleas, when required to issue subpoenas for witnesses to appear before said inquest at the time and place of their meeting and it is made the duty of the sheriff to serve the same without delay, and the said sheriff, clerk and witnesses shall be allowed the same fees as is provided by law for similar services, to be taxed to, and paid by the defendant or defendants in execution.

JOHN BIGGER,

*Speaker of the house of representatives,*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 2, 1822.

## CHAPTER XXIX.

*AN ACT, to amend the several acts directing the mode of proceeding in Chancery.*

On injunction dissolved and bill dismissed, court to give judgment for 5 per cent penalty on principal and interest	1	{ Equitable estate may be levied on and sold by execution	3
On appeal to supreme court, injunction dissolved and bill dismissed, court to give judgment for 10 per cent penalty on principal and interest	2	{ Manner of proceeding thereon	ib
		{ Proceedings against a judgment debtor when he has neither real or personal estate subject to execution but has debts due to him secured by mortgage	4

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio* That in all cases wherein an injunction may be hereafter allowed to stay proceedings at-law, in an action for the recovery of money only, upon the injunction being dissolved, and the bill dismissed in the court of common pleas, the court shall proceed to render up a decree in favor of the respondent or respondents, (plaintiff or plaintiffs at law) for the debt or damages, interest and costs recovered at law, and also for the interest and costs accruing in chancery, together with five per cent. penalty on the amount of debt or damages, and the interest which may have accrued, upon which said decree, the party or parties in whose favor it is rendered, or his or their legal representatives may sue out execution as in other cases in chancery.

SEC. 2. *Be it further enacted,* That if the complainant or complainants shall appeal from the decree rendered in the

court of common pleas to the supreme court, in any case specified in the foregoing section, and the said injunction shall be dissolved, and the bill dismissed in said supreme court, they shall proceed to render up a decree for the debt or damages, interest and costs which were recovered at law, as also for the interest and costs that may have accrued in the court of common pleas, and in said supreme court, together with ten per cent. penalty on the debt or damages and interest accrued in favor of the respondent or respondents; and it shall be the duty of the clerk of said supreme court, forthwith to certify said decree to the clerk of the court of common pleas of the proper county, and it shall be the duty of the said clerk of the court of common pleas, to record the same in a book by him to be kept for that purpose, and immediately thereafter, on a precept being filed, shall issue final process as is provided in the first section of this act, returnable to the next court of common pleas.

SEC. 3. *Be it further enacted.* That in all cases where judgments shall have been obtained at law, in the court of common pleas or supreme court, and the defendant or defendants in execution, has no real estate holden by legal title, whereon to levy an execution to satisfy said judgment, but is possessed of an equitable interest in real estate, it shall be lawful for the plaintiff or plaintiffs in execution, his, her or their legal representatives, to file a bill in chancery, in the county where such lands may be situate, setting forth the judgment, and that the party has no legal estate, which can be levied on and sold to satisfy said judgment, and praying that said defendant or defendants equitable interest in said land, might be decreed to be sold to satisfy said judgment, it shall be the duty of said court of common pleas or supreme court to decree that the equitable interest in said lands, shall be sold to satisfy said judgment, and the sale thereof shall be conducted in all respects in the same manner as is provided for the sale of real estate, in the act regulating judgments and executions: *Provided,* That the inquest or appraisers who may be called on to view and appraise said land shall take into consideration only the interest, the defendant or defendants may have therein, and it shall be the duty of the sheriff to whom process may be directed by virtue of this section of this act, to return his proceedings to the next court of common pleas, and it shall be the duty of said court to examine the proceedings of the sheriff, respecting the said sale, and if on examination it shall be found that the sale has been in all things conducted agreeably to the pro-

visions of this act, to make record thereof confirming the same, and render a decree conveying unto the purchasers all the equitable interest of the defendant or defendants in the premises.

SEC. 4. *Be it further enacted*, That in all cases where judgments have been or hereafter may be obtained at law, in any court of record in this state, upon which an execution shall have issued, and it shall appear by the return of the sheriff or other officer, to whom such execution shall have been directed, that the party against whom such execution issued, has no personal or real estate whereon to levy, to satisfy such judgment, it shall be lawful for the plaintiff or plaintiffs in any such judgment, his, her or their legal representatives, to file a bill in chancery in the court of common pleas, or supreme court of the proper county, setting forth that such judgment debtor has no personal or real estate which can be levied on and sold, to satisfy such judgment, and praying that the right, title, claim or interest which such debtor may have in any lands, tenements or hereditaments which has been or shall be mortgaged for the security of any debt due, or assigned to such debtor, may be decreed to be sold to satisfy such judgment, and it shall be the duty of the court of common pleas, or supreme court to decree that the right, title, claim or interest which such debtor may have in any lands, tenements or hereditaments, which shall have been mortgaged for the security of any debt due or assigned to such judgment debtor, shall be sold to satisfy such judgment; and the sale thereof shall be conducted in such manner as the court by their decree shall direct, and the sheriff or other officer to whom process may be directed by virtue of this act, is hereby empowered and directed to assign and transfer the same to the purchaser; and any debt secured by such mortgage, shall pass by the assignment of the sheriff or other officer, who shall serve such writ of execution, and be completely and to all intents and purposes, transferred to and vested in such purchaser; and any such purchaser or his legal representative, may in his own name, maintain any action proper to recover such debt or to obtain possession of such lands, tenements or hereditaments, which might have been maintained in the name of such debtor, had no such sale been had; and the copy of such mortgage deed, duly certified by the recorder of deeds for the county where such lands are situated, and where such mortgage deed shall be recorded, shall be considered prima facie evidence of such mortgage deed, and of the note

or other obligation on such mortgage is found, and that the same were remaining due and unsatisfied at the time of entering the decree, and whenever the debtor in such mortgage shall have paid to such purchaser the amount due thereon, he shall be forever discharged from such note or obligation; and no gift, sale, transfer, conveyance, assignment or endorsement of such note or mortgage made by such judgment debtor, after the service of the subpoena in chancery, shall have any validity, force or effect against such purchaser, at the sale under execution, but the same shall be adjudged null and void, except only between such judgment debtor and the person to whom such debtor shall make such gift, sale, transfer, conveyance, assignment or endorsement, their heirs, executors, administrators and assigns.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 4, 1822.

## CHAPTER XXX.

### *AN ACT, regulating judgments and executions.*

Lands &c. may be executed and sold	1	to appraise land levied on before sold.	9.
Lands bound from the 1st day of the judgment term when they lie in the county.	2	30 days notice of sale of lands to be given.	10.
Other lands and goods &c. bound after levy.	ib	Court to examine proceedings of officer in sale of lands, before deed is made.	ib
Provided that execution issue in one year after judgment.	ib	Sheriff's to make deed to purchaser.	11.
Provisions in case of appeal, writ of error, injunction &c.	ib	Sheriff to levy on seprate parcels of real estate, when required by the creditor,	12
Form of execution.	3	Provisions when sheriff dies &c. before executing deed.	13.
Executions to take precedence as delivered to the officer.	4	Sheriff to pay over surplus money.	14
Duty of officer in levying execution.	5	Reversal of judgment not to affect sale of property.	15
Property claimed by another person the officer to summon a jury of three persons.	6	When real estate has been twice offered for sale, court may set aside appraisment.	16
Proceedings on trial of the right of property.	ib	Writs to be returned 2d day of the term.	17
Notice of sale to be given ten days.	7	Duty of clerk in recording judgments to designate the principal from the surty.	18:
Duty of officer when goods &c. sold do not satisfy the execution.	8		
Officer to summon five freeholders			

Property of principal to be first sold.	ib	to issue against him and his securities.	25
Execution to issue against principal debtor before suit on the injunction or appeal bond.	19	Persons of family may retain certain property free from execution.	26
Goods and chattels to be appraised till the 4th July 1822.	20	After 4th July 1822 no appraisal of personal property.	17
Not to be sold for less than one half the appraised value.	ib	Debtor may deliver up property in discharge of his body.	28
Penalty of 50 cents for refusing to act as appraiser	21	Execution may issue against the property of deceased persons.	29
Appraiser entitled to 50 cents a day.	22	Sheriff may be amerced &c.	30
Property not selling for half price to be returned to debtor upon his giving bond &c.	23	When officer is amerced without having collected the money.	31
Goods and chattels restored to officer to be sold without regard to valuation.	24	Plaintiff may issue scia facias against the heirs of testator or intestate, five years from judgment.	32
Debtor failing to deliver goods and chattels upon bond, scia facias		Repealing clause.	33
		Commencement.	ib

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That lands, tenements, goods and chattels, shall be subject to the payment of debts, and shall be liable to be taken in execution and sold as hereinafter provided.

SEC. 2. *Be it further enacted,* That the lands and tenements of the debtor shall be bound for the satisfaction of any judgment against such debtor, from the first day of the term at which judgment shall be rendered, in all cases where such lands lie within the county where the judgment is entered, and all other lands as well as the goods and chattels of the debtor, shall be bound from the time they are seized in execution: *Provided,* That in all cases where the party obtaining judgment, shall neglect for the space of one year, next after the first day of the term, in which such judgment shall have been rendered, to sue out execution thereon, and cause the same to be levied according to the provisions of this act, such judgment shall not operate as a lien on the debtors estate to the prejudice of any other bona fide judgment creditor; but in all cases where judgment has been, or may be rendered in the supreme court, and a special mandate awarded to the court of common pleas, to carry the same into execution, the lien of the judgment creditor shall continue for one year after the first day of the term of the court of Common pleas, to which the mandate may be directed; and nothing in this section, shall be so construed, as to defeat the lien of any judgment creditor who shall fail to take out execution and cause a levy to be made as herein provided, when such failure shall be occasioned by appeal, writ of error, injunction or

by a vacancy in the office of sheriff and coroner, or the inability of such officer, until one year after such disability shall be removed.

SEC. 3. *Be it further enacted*, That the writ of execution sued out of any court of record within this state, upon any judgment therein rendered, to cause the same to be satisfied of the goods and chattels, lands and tenements of the debtor, shall command the officer to whom it is directed, that of the goods and chattels of the debtor, he cause to be made the moneys specified in the writ, and for want of goods and chattels, he cause the same to be made of the lands and tenements of the debtor, and the exact amount of the debt, damages and costs for which the judgment is entered, shall be endorsed on the execution.

SEC. 4. *Be it further enacted*, That where two or more writs of execution against the same debtor shall be sued out, during the term in which judgment was rendered; or within ten days thereafter; and when two or more writs of execution against the same debtor, shall be delivered to the officer on the same day, no preference shall be given to either of such writs; but if a sufficient sum of money is not made, to satisfy all such executions, the amount made shall be distributed to the several creditors, in proportion to the amount of their respective demands, in all other cases the writ of execution first delivered to the officer, shall be first satisfied, and it shall be the duty of the officer to endorse on every writ of execution, the time when he received the same.

SEC. 5. *Be it further enacted*, That the officer to whom a writ of execution is delivered, shall proceed immediately to levy the same upon the goods and chattels of the debtor, but if no goods and chattels can be found, the officer shall endorse on the writ of execution "no goods," and forthwith levy the writ of execution upon the lands and tenements of the debtor, which may be liable under this act, to satisfy the judgment upon which the writ of execution issued.

SEC. 6. *Be it further enacted*, That if the officer to whom an execution issuing from any court of record, shall be delivered, shall levy the same upon goods and chattels claimed by a third person, it shall be lawful for such officer to summon three respectable householders, and administer to them an oath or affirmation, well and truly to enquire and determine the right of property in the goods and chattels in question, and also summon such witnesses as either party may require, to attend such enquiry, on being furnished with a list of the names of such wit-



nesses, by the party requiring their attendance; and also administer to such witnesses an oath or affirmation, to give evidence upon such trial. And the officer shall previously to the trial of the right of property, thus levied on and claimed, give five days notice thereof, to the plaintiff in execution, his agent or attorney, if within the county; and if the householders so summoned, shall determine that the right of property is in the claimant, the officer shall deliver to such claimant the goods and chattels in question, and the costs of such enquiry shall be paid by the plaintiff in execution; and such determination of the householders shall justify the officer in returning upon the writ no goods, as to such goods and chattels; and when the claimant shall appear before the householders and exhibit testimony, if the householders determine that the right of property is not in the claimant, such determination shall preclude the claimant from any action against the officer, for taking the goods and chattels in question, and the said claimant so failing to establish his claim before the householders, shall pay the costs of the enquiry.

SEC. 7. *Be it further enacted*, That the officer who levies upon goods and chattels, before he proceeds to sell the same, shall cause public notice to be given of the time and place of sale, for at least ten days before the day of sale; which notice shall be given either by advertisement published in some newspaper printed in the county, or by setting up advertisements in four public places in the county; two of which advertisements shall be put up in the township where the sale is to be held: and where goods and chattels levied upon, cannot be sold for want of bidders, the officer making return that goods and chattels remain unsold, for want of bidders, shall annex to the execution a true and perfect inventory of such goods and chattels, and the plaintiff in such execution, may thereupon sue out his writ of venditioni exponas, but such goods and chattels shall not be sold unless the time and place of sale be advertised, as herein before provided.

SEC. 8. *Be it further enacted*, That when the goods and chattels levied upon and sold, shall not produce a sum sufficient to satisfy the judgment, upon which the writ of execution issued, it shall be the duty of the officer to endorse upon the writ of execution, the amount made, and that there are no goods whereof to make the residue, and thereupon to levy upon the lands and tenements of the debtor or so much thereof as may be sufficient to make the residue.

SEC. 9. *Be it further enacted*, That if execution be levied upon lands and tenements, the officer levying such execution, shall call an inquest of five respectable freeholders, who shall be resident within the county where the lands so taken in execution are situate, and administer to them an oath or affirmation impartially to appraise the estate so levied on, and the said freeholders shall return to the said officer, under their hands and seals, an estimate of the real value in money of said estate, upon actual view of the premises, within ten days after such view; and the officer on receiving such return, shall forthwith deposit a copy thereof, with the clerk of the court from which such writ issued, and immediately advertise and sell such real estate, agreeably to the provisions of this act; and if upon such return as aforesaid, it shall appear by the inquisition, that two-thirds of the appraised value of the lands and tenements, so levied upon, is sufficient to satisfy the execution, with all costs, the judgment on which such execution issued, shall not operate as a lien on the residue of the debtors estate, to the prejudice of any other bona fide judgment creditor: *Provided*, That no tract of land shall be sold for less than two-thirds of the appraised and returned value of the inquest: *And provided also*, That nothing in this section contained, shall in any wise extend to affect the sale of lands by the state, for any debt or taxes due thereto; but all lands in this state, the property of individuals, who may be indebted to the state, for any debt or taxes, or in any other manner, except for loans authorized by the legislature, shall be sold without valuation, for the discharge of such debt or taxes, agreeably to the law or laws of this state, in such case made and provided: *Provided likewise*, That if the property of any clerk, sheriff, coroner, justice of the peace, or constable, or any collector of state, county, town or township tax, shall be levied on, for or on account of any monies that now is or may hereafter be by them collected or received in their official capacity, the property so levied on, shall be sold without valuation, to the highest bidder; any thing in this act to the contrary notwithstanding.

SEC. 10. *Be it further enacted*, That lands and tenements taken in execution, shall not be sold until the officer cause public notice of the time and place of sale, to be given for at least thirty days before the day of sale, either by advertisement in some newspaper printed in the county, or by putting up an advertisement upon the court house door, and in five other public places in the county, two of which shall be put up in the township where such lands and tenements lie;

and all sales made without such advertisement, shall be set aside by the court to which the execution is returnable, on motion: *Provided*, That if the court to which any writ of execution shall be returned by the officer, for the satisfaction of which any lands and tenements may have been sold, shall, after having carefully examined the proceedings of such officer, be satisfied that the sale has in all respects been made in conformity to the provisions of this act, they shall direct their clerk to make an entry on the journal, that the court are satisfied of the legality of such sale, and an order that the said officer make to the purchaser a deed for such lands and tenements; which deed so made, shall be prima facie evidence of the legality of such sale, until the contrary be proved. And all sales of lands or tenements by virtue of this act, shall be had in the counties in which such lands and tenements are situated.

SEC. 11. *Be it further enacted*, That the sheriff or other officer, who by such writ or writs of execution shall sell the said lands and tenements so levied upon, or any part thereof, shall make to the purchaser or purchasers thereof, as good and sufficient a deed of conveyance for the lands and tenements so sold, as the person or persons against whom such writ or writs of execution were issued, might or could have made for the same at or any time after the said lands became liable to the said judgment, which deed shall vest in the purchaser as good and as perfect an estate in the premises therein mentioned, as was vested in the party at or after the time when said lands and tenements became liable to the satisfaction of said judgment; and the said deed of conveyance to be made by the sheriff or other officer, shall recite the execution or executions, or the substance thereof, and the names of the parties, the kind of action, the amount and date or term of rendition of each judgment, by virtue whereof the said lands and tenements were sold as aforesaid, and shall be acknowledged or proved and recorded, as is or may be provided by law, to perfect the conveyance of real estate in other cases.

SEC. 12. *Be it further enacted*, That in all cases where two or more executions shall be put into the hands of any sheriff or other officer, and it shall be necessary to levy on real property to satisfy the same, agreeably to the provisions of this act, and either of the judgment creditors, in whose favor one or more of said executions is issued, shall require of the sheriff or other officer, to make a separate levy to satisfy his execution or executions, it shall be the duty of the sheriff or other officer to levy said executions, or so many thereof as

may be required on separate parcels of the real property of the judgment debtor or debtors, giving to the officer making the levy on behalf of the creditor, whose execution may by this act be entitled to a preference, the choice of such part of the real property of the judgment debtor or debtors as will be sufficient, at two thirds of the appraised value, to satisfy the same; and in all cases where two or more executions which by the provisions of this act, are entitled to no preference over each other, are put into the hands of the same officer, and such officer may be required to levy the same on real property, it shall be the duty of the sheriff or other officer, where he may be required so to do, to levy the same on separate parcels of the real property of the judgment debtor or debtors, where in the opinion of the appraisers. the same may be divided without material injury; and if the real property of said debtors will not be sufficient, at two-thirds of its appraised value, to satisfy all the executions chargeable thereon, such part of said real property shall be levied on to satisfy each execution as will bear the same proportion in value to the whole of said real property, as the amount due on the execution bears to the amount of all the executions chargeable thereon, as near as may be, according to the value of each separate parcel of said real property, as assessed by the freeholders agreeably to the ninth section of this act.

SEC. 13. *Be it further enacted,* That if the term of service of the sheriff or other officer, who hath made or shall hereafter make sale of any lands and tenements, by virtue of an execution against the same, shall expire, or if the said sheriff or other officer shall abscond or be rendered unable by death or otherwise, to make a deed of conveyance for the same, it shall be lawful for any succeeding sheriff or other officer, on receiving a certificate from the court from which such execution issued, for the sale of the said lands and tenements, signed by the clerk, by order of said court, setting forth that sufficient proof hath been made to the said court, that such sale was fairly and legally made, and on tender of the purchase money, or if the purchase money or any part thereof be paid, then on proof of such payment, and tender of the balance, if any there be, to sign, seal and deliver to the said purchaser or purchasers, or his or their legal representatives, a deed of conveyance of the said lands and tenements so sold, which deed shall be as good and valid in law, and have the same effect, as if the sheriff or other officer who made the sale had executed the same.

**Sec. 14.** *Be it further enacted,* That if on any sale made as aforesaid, there shall remain an overplus of money in the hands of the sheriff or other officer, after satisfying the writ or writs of execution, with interest and costs, then the said sheriff or other officer shall pay over to the defendant in execution or his legal representative, such overplus on demand.

**Sec. 15.** *Be it further enacted,* That if any judgment or judgments, in satisfaction of which any lands or tenements belonging to the party hath or shall be sold, shall at any time thereafter be reversed, such reversal shall not affect or defeat the title of the purchaser or purchasers, but in such case restitution shall be made of the monies by the judgment creditor, for which such lands or tenements were sold, with lawful interest from the day of sale.

**Sec. 16.** *Be it further enacted,* That in all cases where real estate has heretofore been levied upon and appraised, according to the provisions of the act regulating judgments and executions in force at the time such judgment was rendered, and shall have been twice advertised and offered for sale, and shall remain unsold for want of bidders, it shall be the duty of the court, from which such execution issued, on motion of the plaintiff, at any time within six months next after the taking effect of this act, to set aside such levy and appraisal, and award a new execution, which shall be levied according to the provisions of this act, and after such levy the judgment on which the execution issued, shall not operate as a lien on the residue of the debtors estate, to the prejudice of any other bona fide judgment creditor; but if the plaintiff in any such judgment shall not within the time aforesaid, cause the levy and appraisal to be set aside, as herein provided, then and in that case, such judgment shall operate as a lien only on such part of the debtors estate as shall have been levied on; and in all cases where judgments have heretofore been rendered, and on which executions shall not have been taken out and levied prior to the taking effect of this act, it shall be lawful for the plaintiff in any such judgment to have execution thereon, and cause the same to be levied, according to the provisions of this act, at any time within six months next after the taking effect of this act, and after such levy the judgment on which such execution issued, shall not operate as a lien on the residue of the debtors estate, to the prejudice of any other bona fide judgment creditor, and no judgment heretofore rendered, on which execution shall not be taken out and levied before the expiration of one year next after the taking effect of this act, shall oper-

ate as a lien on the estate of any debtor, to the prejudice of any other bona fide judgment creditor, and in all cases where real estate has been or may hereafter be taken in execution and appraised, and twice advertised and offered for sale, and shall remain unsold for want of bidders, it shall be the duty of the court from which such execution issued, on motion of the plaintiff, to set aside the inquest and appraisement so made; and upon a subsequent execution the estate so remaining unsold, shall be appraised and sold according to the provisions of this act: *Provided*, That in all cases where the court shall order a second appraisement, on motion of the plaintiff, as herein before provided, the expense thereof shall be paid by such plaintiff.

SEC. 17. *Be it further enacted*, That the sheriff or other officer, to whom any writ of execution shall be directed, shall return such writ to the court to which the same is returnable, on or before the second day of the term to which such writ is made returnable: *Provided*, That all executions issued by the court of common pleas, for the county of Hamilton, twenty days prior to the commencement of any term, may be returned on or before the third Monday of said term; any thing in this act to the contrary notwithstanding.

SEC. 18. *Be it further enacted*, That in all cases where judgment is rendered in any court of record within this state, upon any bond, sealed bill, promissory note or other instrument of writing, in which two or more persons are jointly and severally held and bound, and it shall be made appear to the court by parole or other testimony, that one or more of said persons so bound, signed the same as surety or bail, for his or their co-defendant, it shall be the duty of the clerk of said court, in recording the judgment thereon, to certify which of the defendants is principal debtor, and which are sureties or bail, and the clerk of the court as aforesaid, in issuing execution on any such judgment, shall issue execution, commanding the sheriff or other officer to cause the money specified in the writ, to be made of the goods and chattels, lands and tenements of the principal debtor, and for want of such goods and chattels, lands and tenements of the principal debtor, whereof to make the same, then that he cause the same to be made of the goods and chattels, lands and tenements of the surety or bail, and in all such cases the property, both personal and real, of the principal debtor within the jurisdiction of the court shall be exhausted, before any of the personal or real property of the surety or bail shall be taken in execution, and all justices of the peace shall be governed

By the provisions of this section, so far as the same may be applicable to their proceedings.

SEC. 19. *Be it further enacted,* That in all cases where judgment shall be rendered in the supreme court, against the appellant, or an injunction dissolved in the court of common pleas or supreme court, the successful party shall, before he brings suit upon the appeal or injunction bond, issue execution against the principal debtor, and if by the return upon the execution, it shall appear that the principal debtor has not goods and chattels, lands and tenements sufficient to satisfy the same, the successful party may then commence suit upon the appeal or injunction bond, and take judgment for the penalty thereof, which judgment shall be discharged by the payment of the original judgment or decree, with interest and costs, together with costs of suit on the appeal or injunction bond.

SEC. 20. *Be it further enacted,* That before any sheriff, constable or other officer, shall proceed to sell any goods or chattels, upon any writ of execution issued upon judgments obtained on contracts entered into, or for torts committed previous to the fourth day of July next, such sheriff, constable or other officer, if required, at the time of the levy by the defendant in execution, his or her agent or attorney, shall summon an inquest of three respectable householders, residents of the county, and administer to them an oath or affirmation, impartially to appraise the said goods or chattels; and the said householders shall proceed to make out a schedule of the property so levied on, and the valuation in money at the time of appraisal of each article thereof, which schedule they or a majority of them, shall sign and forthwith deliver to said officer, and such goods and chattels shall not be sold for less than one half of the appraised value thereof.

SEC. 21. *Be it further enacted,* That when any freeholder shall be summoned to appraise real property, or when any householder shall be summoned to determine the right of property in, or to appraise goods or chattels taken in execution, under the provisions of this act, and shall fail to appear at the time and place appointed by the officer; and discharge his duty as appraiser or trier, he shall on complaint being made to any justice of the peace of the township in which such delinquent freeholder or householder may reside, forfeit and pay the sum of fifty cents for every such neglect, which sum shall be collected by said justice, and paid into the township treasury for the use of the township: *Provided,* That such justice may receive from such freeholder or house-

holder, such excuse for his delinquency as he may deem reasonable.

SEC. 22. *Be it further enacted,* That each freeholder or householder, summoned under the provisions of this act, shall be allowed and receive for his services the sum of fifty cents for each day he may be engaged in the discharge of the duties enjoined by this act, to be collected on the execution, by virtue of which the property appraised was levied on, if claimed at the time of making the return.

SEC. 23. *Be it further enacted,* That when any article of goods and chattels taken in execution, and valued according to the provisions of this act, shall not sell for one half of its appraised value, it shall be lawful for the officer having such goods and chattels in custody, to return upon such writ that such article was not sold for want of bidders, and it shall moreover be lawful for such officer to deliver such article or articles to the judgment debtor, upon his giving bond with two securities resident in the county, to the satisfaction of the officer, that the judgment debtor will deliver to the officer having in his hands an execution upon the same judgment, the article or articles to him restored upon the execution, or other goods and chattels of equal value, to be selected by the officer, which value shall be ascertained by an inquest of three householders, as is herein provided, in case of levy on personal property, upon demand being made at any time after the expiration of nine months from the date of the said bond, at the residence of the judgment debtor, if within the jurisdiction of the court or justice of the peace, from which execution issued, but if the residence of the judgment debtor, be not within the same, then at the place where the levy was made, which bond shall be made payable to the other party to the execution, and shall be returned with the writ of execution to the court or justice of the peace, from which the same issued, and when the goods and chattels, levied upon by virtue of an execution issuing from any court of record, shall be restored to the debtor under the provisions of this act, and it shall appear by the return of the appraisers to the officers, that such goods and chattels are not sufficient to satisfy the execution at one half the appraised value thereof, it shall be the duty of such officer to endorse the same on the execution, and forthwith proceed to levy the said execution upon the lands and tenements of the debtor, to make the residue: *Provided,* That if the judgment debtor shall fail, immediately after it is ascertained that the goods and chattels will not sell for one half of the appraised



value, to enter into bond with security as in this section is required, it shall then and in that case be the duty of the officer forthwith to offer and sell to the highest bidder, the said goods and chattels, without regard to valuation.

SEC. 24. *Be it further enacted*, That if the judgment debtor shall according to the conditions of his bond, deliver the article or articles of goods and chattels to him restored, upon the execution or other goods, and chattels of equal value, to be selected by the officer as aforesaid, it shall be the duty of the officer, after having advertised the same, agreeably to the provisions of this act, to sell the same to the highest bidder without appraisement, or regard to valuation: *Provided*, That no sheriff or other officer conducting the sale of property either personal or real, nor any appraiser of such property shall either directly or indirectly purchase the same, and any purchase so made shall be considered fraudulent and void.

SEC. 25. *Be it further enacted*, That if the judgment debtor shall not at the time specified in the condition of the bond deliver to the officer the article or articles of goods and chattels, to him restored upon the execution of the bond aforesaid, or other goods and chattels of equal value, selected by the officer upon demand being made as aforesaid, the condition of the said bond shall be considered as broken, and the judgment creditor may sue out of any court having competent jurisdiction a writ of scire facias against the said judgment debtor, and his securities in said bond, directed to the sheriff or constable (as the case may be) commanding him to summon the said judgment debtor and his securities to appear on a day therein specified, and show cause why judgment should not be rendered against them, and execution awarded for the amount of the previous judgment and costs which writ of scire facias shall be served at least ten days before the return thereof, and upon the return of the said writ of scire facias "served," or of two writs returned "nihil," the court or justice of the peace, if it appear that the condition of the bond has been broken, and that the said judgment remains unsatisfied, shall upon motion and without pleadings, render judgment for the amount due thereon, and interest together with costs, and award execution therefor, against the said judgment debtor, and his securities, upon which judgment on the scire facias there shall be neither stay of execution nor appraisement of personal property, but the property seized in execution shall be sold to the highest bidder without regard to valuation.

**SEC. 26.** *Be it further enacted,* That each person who has a family shall hold the following property exempt from execution or sale, for any debt, damages, fine or amercement, to wit: one cow, twelve sheep and the wool shorn from them, all the flax in possession of such family, and the yarn or thread manufactured therefrom, two spinning wheels, two beds and bedding, the usual and common wearing apparel of such family, any quantity of cloth manufactured by such family, not exceeding one hundred yards, two pots or kettles, and any other articles of household furniture or tools of a mechanic, which the debtor shall select not exceeding fifteen dollars in value, to be appraised by the officer having execution against such person, and the tools of a mechanic necessarily employed in his occupation, shall not be liable to execution until his other personal property, liable to execution shall have been levied on and sold.

**SEC. 27.** *Be it further enacted,* That on all judgments obtained upon contracts entered into, or for torts committed, after the fourth day of July next whether such judgments be obtained in any court of record, or before justices of the peace, there shall be no appraisement of personal property, and the court or justice rendering judgment after the said fourth day of July, shall cause it to be entered on record in each case, whether appraisement be necessary or not under this act, which shall be endorsed on the execution.

**SEC. 28.** *Be it further enacted,* That any person taken by a writ of capias ad satisfaciendum, shall be discharged by delivering or setting off, to the officer serving the same, real or personal property, sufficient to satisfy the judgment and costs for which such writ issued.

**SEC. 29.** *Be it further enacted,* That the party at whose suit any person may stand charged in execution, for any debt or damages recovered, his, her or their executors or administrators may after the death of the person charged and dying in execution, lawfully sue out and have a new execution against the goods and chattels, lands and tenements, or any of them, of the person so deceased, in such manner and form, to all intents and purposes, as he, she or they might have had by the laws of the state, had the persons never been taken and charged in execution: *Provided always,* That nothing in this section contained shall be construed so as to authorize the party, his, her or their executors or administrators at whose suit any person shall be in execution and die, to have execution against the lands and tenements of the person so dying, which shall at any time after his or her being

taken and charged in execution, be by him or her sold bona fide for the payment of just debts; and the money which shall be paid for the lands so sold; either paid, or received to be paid to his or her creditors.

SEC. 30. *Be it further enacted*, That if any sheriff or other officer, shall refuse or neglect to execute any writ of execution to him directed, and which hath or shall come to his hands, or shall neglect or refuse to sell any goods and chattels, lands and tenements, or shall neglect to call an inquest, according to the foregoing provisions of this act, and return a copy thereof to the clerk's office, or shall neglect to return any writ or writs of execution to him directed, to the court to which the same is or are returnable, on or before the second day, or on or before the third Monday of the term (as the case may be) to which the same is or are made returnable, or shall neglect to return a just and perfect inventory of all and singular the goods and chattels by him taken in execution, unless the said sheriff or other officer shall return, that he hath levied and made the amount of the debt, damages and costs, or shall neglect or refuse on demand made for that purpose, to pay over to the said plaintiff or his legal agent or attorney of record all monies by him received for the use of the said party, at any time after receiving the same, or shall neglect or refuse on demand made for that purpose by the defendant or his legal agent or attorney of record, to pay over all monies by him received for any sale made as aforesaid, more than sufficient to satisfy the writ or writs of execution, with interest and legal costs, he shall on motion in open court, be amerced in the amount of said debt, damages and costs, with ten per centum thereupon, to and for the use of the said plaintiff or defendant (as the case may be:) *Provided*, That where the cause of amercement is for refusing to pay over money collected by the sheriff or other officer, said sheriff or other officer shall not be amerced in a greater amount than the money so withheld, with ten per centum thereon: *Provided also*, That two days notice in writing shall be given to the said sheriff or other officer, by the plaintiff or his attorney, and when execution shall be issued in any county in this state, and directed to the sheriff or coroner of another county, it shall be lawful for such sheriff or coroner having such execution in possession after having discharged all the duties required of him by law to inclose such execution by mail to the clerk of the court, who issued such execution, and on proof being made by such sheriff or coroner, that such execution was mailed and post-

age paid, a sufficient or reasonable time to have reached the office where it issued within the time prescribed by law, such sheriff or coroner shall not be liable to any amercement or penalty, for any failure of the safe arrival of such execution, if such failure does not exist, any thing in this act to the contrary notwithstanding: *Provided however*, That no sheriff shall forward any money made on any such execution by mail, unless he shall be specially instructed so to do by the plaintiff or his agent, and in all cases of a motion to amerce a sheriff or other officer of any county other than the county from which the execution issued, notice shall be given to such officer as herein before required, by leaving with such officer or at his office, a written copy of such notice, at least fifteen days before the first day of the term at which such motion shall be made, or by enclosing and transmitting by mail a written copy of such notice, directed to such officer at least sixty days previous to the first day of the term at which such motion shall be made, and all amercements so procured, shall be entered on the record of the court, and shall have the same force and effect as a judgment; and each and every security of any such sheriff or other officer may be made party to the judgment, so as aforesaid rendered against such sheriff or other officer, by scire facias against such security, and any such surety or sureties may at the return of such scire facias, set up any matter which may have arisen subsequent to entering judgment against such sheriff or other officer, in his, her or their defence, but no matter which may have arisen previous to entering such judgment against such sheriff or other officer shall be permitted to be set up as a defence, and in case the surety or sureties do not show sufficient matter of defence at the return of the said writ of scire facias, wherefore judgment should not pass against him or them, the court before whom the same is made returnable shall render judgment against such security or securities as in other cases, whereupon execution in the name and for the use of the party or his legal representative may, on motion, be awarded against the body of the sheriff or other officer, and the goods and chattels, lands and tenement of such sheriff or other officer, and any surety or sureties who may have been a party to any such judgment, but the goods, chattels, lands and tenements of any such security shall not be liable to be taken on any such execution, when sufficient goods and chattels, lands and tenements of the sheriff or other officer, against whom execution may be issued, can be found to satisfy the same:

*Provided*, That nothing herein contained shall prevent either party from proceeding against such sheriff or other officer, by attachment according to law, at his election.

SEC. 31. *Be it further enacted*, That in cases where a sheriff, coroner or other officer may be amerced, and shall not have collected the amount of the original judgment from the judgment debtor, he shall be permitted to sue out an execution, and collect the amount of said judgment in the name of the original plaintiff, for the use of the said sheriff, coroner or other officer.

SEC. 32. *Be it further enacted*, That when there are judgments unsatisfied against testators or intestates, or against their executors or administrators, or when judgments may hereafter be obtained as aforesaid, in any court of record within this state, it shall be lawful for the plaintiff or plaintiffs in such judgment, at any time within five years after the rendition of said judgment or judgments, to issue a scire facias thereon, against the heirs or devisees of such testator or intestate, if any there be, in which writ of scire facias it shall be set forth that said heirs or devisees or both, as the case may be, hold lands and tenements by devise or descent of such testator or intestate, and said heirs or devisees, or both as the the case may be, shall by said writ or writs of scire facias, be called upon to show cause, if any they have, why the judgment or judgments should not be levied of the lands and tenements so by them held as aforesaid, and if on the hearing of said case it shall appear that said defendant or defendants in said writ named, hold lands and tenements as aforesaid, then judgment shall be rendered thereon, and execution issue and be levied according to the provisions of this act: *Provided*, That where any or all of said heirs or devisees reside out of the county where such judgment or judgments are or may be rendered, it shall be lawful to issue said writ to any county in this state, which writ shall be served by the sheriff of such county, and by him returned to the office whence it issued.

SEC. 33. *And be it further enacted*, That the act regulating judgments and executions passed the twenty-fourth day of February, in the year of our Lord one thousand eight hundred and twenty, and all other acts and parts of acts coming within the purview of this act, be and the same are hereby repealed: *Provided*, That nothing in this act shall be so construed as to affect bonds given for the delivery of personal property, under the act of the twenty-fourth of February aforesaid, but such bonds shall be liable to be prosecuted to

final judgment and execution shall issue thereon in the same manner as though the said act had not been repealed.

This act shall take effect and be in force from and after the first day of June next.

JOHN BIGGER,

*Speaker of the house of representatives.*

ALLEN TRIMBLE,

*Speaker of the senate.*

February 1, 1822.

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## CHAPTER XXXI.

*AN ACT supplementary to the act, entitled An act to incorporate the original surveyed townships.*

SEC. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the trustees appointed under the provisions of the act to which this is supplementary, are hereby authorized and directed, previous to their appropriating the profits arising from section number sixteen, or other sections in lieu thereof, granted by Congress for the use of schools, to require a certified list of all the scholars, who reside within their township, whether they go to school within or without the same to be procured from their respective teachers, stating the time each scholar, by him taught, hath attended, together with such other evidence as the trustees may think necessary; and the trustees shall thereupon apportion an equal dividend of the profits of their reserved section, on the fourth Monday of March, annually, to the use of scholars within their townships, having special regard to the time each scholar hath been taught; and nothing herein contained shall be so construed as to prevent any scholar who may go to a school out of the township, from an equal participation in the profits of said section, in their own proper township, with those actually taught within the same.

SEC. 2. *Be it further enacted,* That all monies heretofore collected from any of the school sections, which have not been distributed among the scholars residing in said township, who have gone to school within, or without the same, the trustees are hereby required to apportion the several sums so collected in each year, among the scholars who have been taught within the same year, agreeably to this act, and the act to which this is supplementary.

**Sec. 3.** *Be it further enacted,* That where any original surveyed township is not laid out into shool districts, it is hereby made the duty of the trustees, on the application of six or more of the freeholders or householders of the township to proceed to lay out said township into school districts.

**Sec. 4.** *Be it further enacted,* That where any school has been, or hereafter may be established in any township, where there is a section or part of a section of land granted for the use of schools the persons establishing such school shall choose three trustees, whose duty it shall be to demand and receive from the teacher a certified list of all the scholars by him taught; and the time for which they have severally attended, and lay the same before the trustees of the township, and receive from them the dividend due said school, and apportion the same among the scholars according to the first section of this act.

**Sec. 5.** *Be it further enacted,* That no person residing on or holding a lease of any part of section number sixteen, or other section granted in lieu thereof, for the support of schools, shall be eligible to be elected to the office of trustee or treasurer of any original surveyed township in this state.

**Sec. 6.** *Be it further enacted,* That the act supplementary to the act, entitled "an act to incorporate the original surveyed townships," passed Febuary ninth, one thousand eight hundred and fourteen, be and the same is hereby repealed.

JOHN POLLOCK,

*Speaker of the House of Representatives.*

THOMAS KIRKER,

*Speaker of the Senate.*

February 15, 1815.

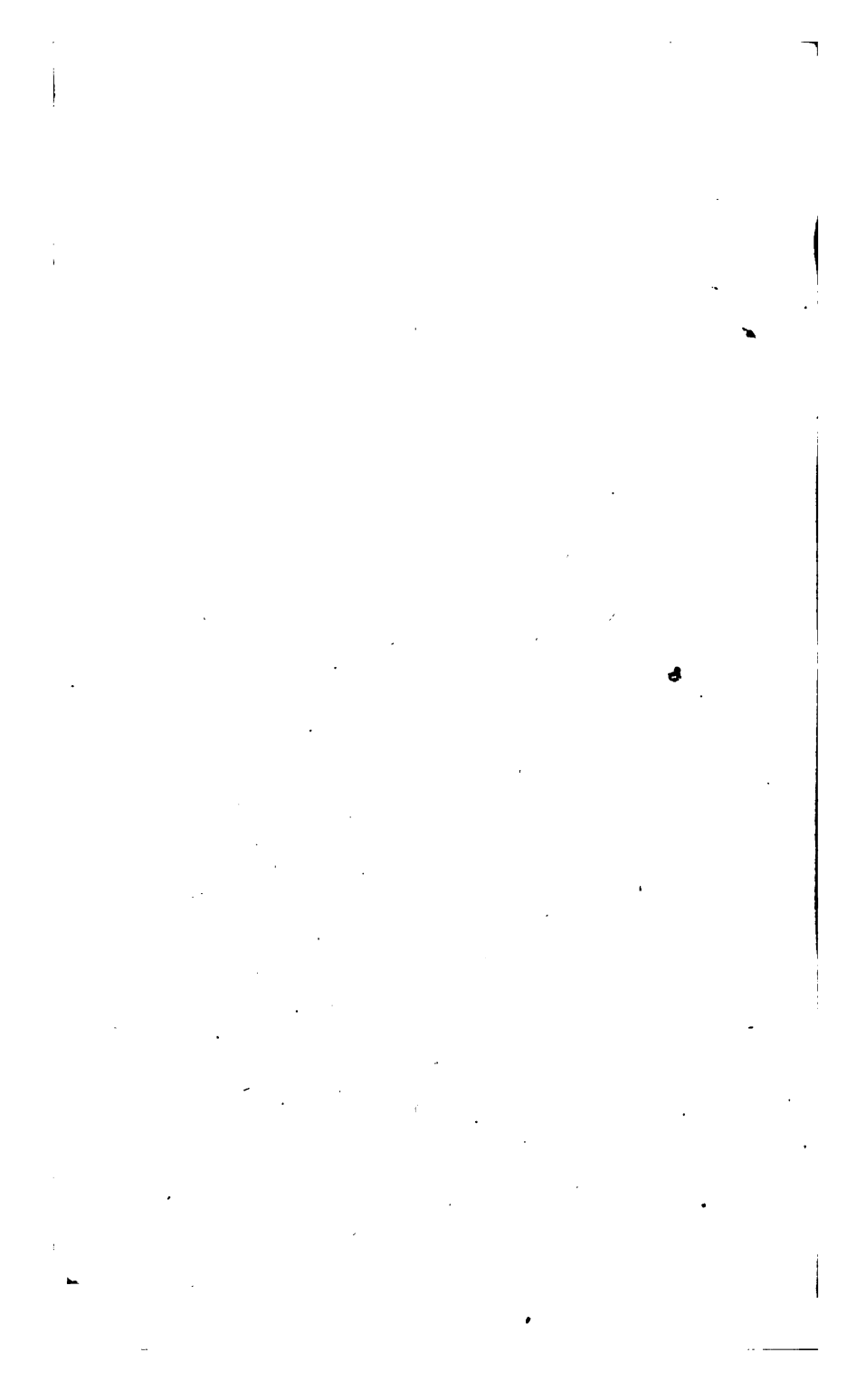
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### Secretary of State's Office,

*Columbus, Ohio February 26, 1822.*

I do certify the foregoing acts to be correct copies from the original rolls remaining on file in this office.

JER. McLENE, *Secretary of State.*



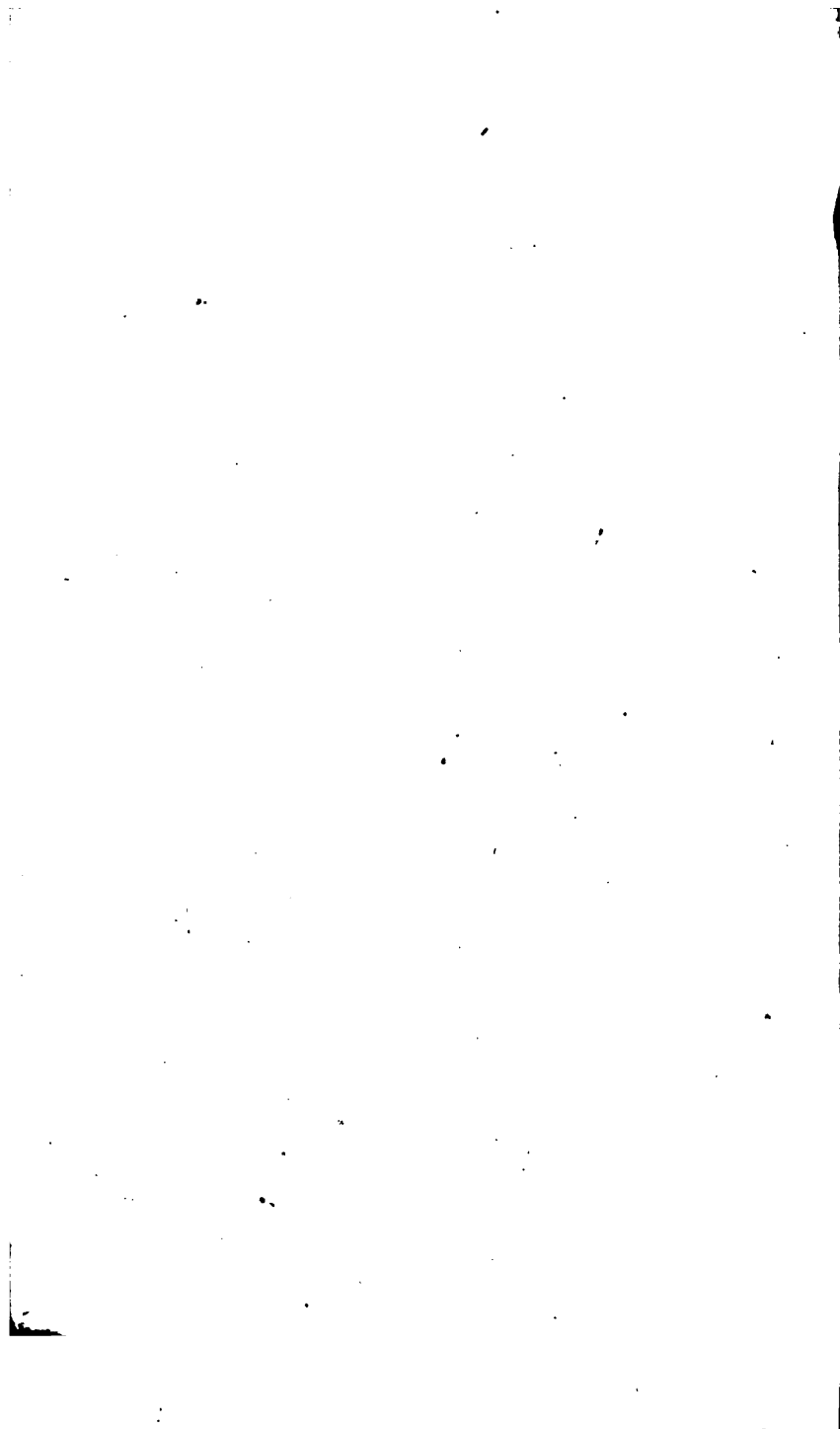


# INDEX.

	PAGE.
An Act, making an appropriation for the payment of a certain sum of money to John C. Bayless, and to Simonton and Lowry, and for other purposes,	3
An Act, to prevent frivolous and vexatious suits, in certain cases,	<i>ibid.</i>
An Act, fixing the compensation of members of the General Assembly, their clerks and door-keepers.	4
An Act, to repeal a part of the act, entitled An act regulating the navigation of the Great Miami river and its main branches,	5
An Act, to amend the act, entitled An act relative to permanent leases, passed January 29th, 1821,	6
An Act, fixing the salary of the Governor, Secretary of state, Treasurer, Auditor, Chief Clerk in the Auditors office, Supreme Judges and President Judges of the courts of common pleas,	<i>ibid</i>
An Act, to amend the act, entitled An act establishing seats of justice,	7
An Act, making a temporary appropriation to defray the expenditures of the Penitentiary, and for other purposes,	8
An Act, to amend the act, entitled An act against forcible entry and detainer,	9
An Act, concerning divorce and alimony,	10
An Act, to amend the act, entitled An act regulating marriages,	12
An Act, further to amend the act, for proving and recording wills and codicils, defining the duties of executors and administrators, the appointment of guardians and the distribution of insolvent estates,	13
An Act, to encourage the killing of Wolves,	14
An Act, to amend the act levying a tax upon sales at auction in certain cases,	15
An Act, to amend the several acts defining and regulating the duties of Auditor and Treasurer of state,	16
An Act, regulating the time of holding judicial courts,	17
An Act, providing for the remission of penalties and for the sale of lands for taxes,	23
An Act, for the relief of tenants in common, and joint tenants in certain cases,	28
An Act, to repeal the thirty-fourth section of the act, entitled An act for opening and regulating roads and highways,	29

An Act, for the protection of steam-boats owned by citizens of this state, and navigated on Lake Erie,	29
An Act, authorising an examination into the practicability of connecting Lake Erie with the Ohio river by a canal,	31
An Act, to provide for an extra session of the General Assembly,	33
An Act, to amend the act, entitled An act to regulate the Scioto Salt Works,	<i>ibid</i>
An Act, relating to the printing and distribution of the laws and journals,	34
An Act, to amend an act, entitled An act to amend the fourteenth section of the act to incorporate the original surveyed townships, passed the second day of February, 1821.	35
An Act, making provision for carrying into effect the act for the punishment of crimes,	<i>ibid</i>
An Act, to amend an act, entitled An act for the safe keeping of idiots, lunatics and insane persons, the protection of their property and for other purposes, passed January fourth, eighteen hundred and twenty; and requiring certain duties of township listers,	49
An Act, regulating the compensation of associate judges, and certain other officers therein named,	52
An Act, supplementary to the act, entitled An act regulating the duties of County Auditors and County Commissioners,	53
An act to amend the act for the punishment of certain offences therein specified, and the act supplementary thereto,	55
An Act, levying a tax on land and for other purposes,	56
An Act, making appropriations for the year eighteen hundred and twenty two,	59
An Act, to amend the act, entitled An act for a more speedy and equitable collection of debts, where banks and bankers are parties,	62
An Act, to amend the several acts directing the mode of proceeding in chancery,	65
An Act, regulating judgments and executions,	68
An Act, supplementary to the act, entitled An act to incorporate the original surveyed townships,	84

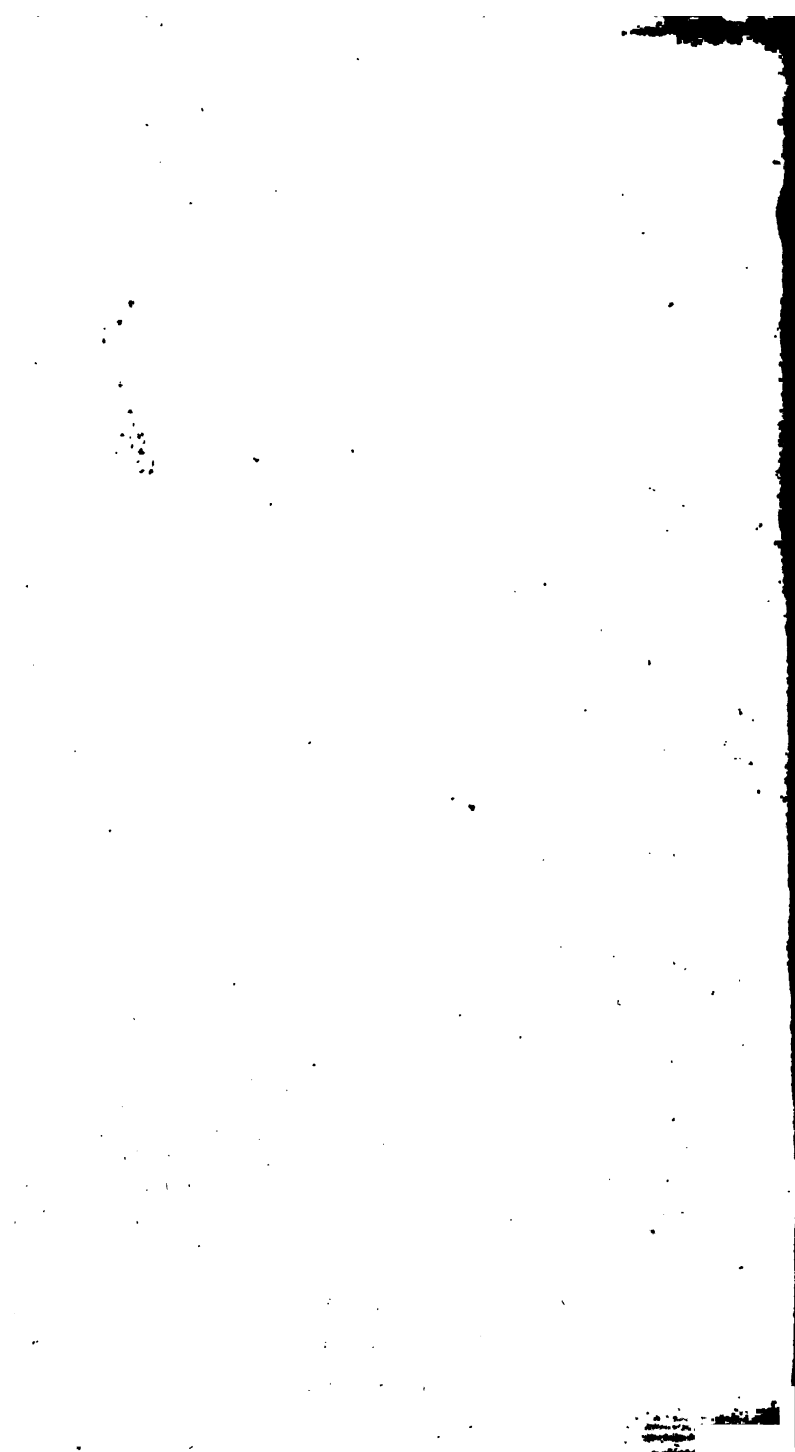




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